

1895-011  
Lee Co.

Chancery Causes: Bennett Bailey vs. James Carmichael &c  
John Bailey vs. James Carmichael &c

Johnson, Bayley, Ewing, Myers, Zion, Owen, Wattenbarger,  
Parsons, Stapleton, Holmes, Carroll, Bailey, Pennington,  
Hopkins, Jackson, Blankenship

CA-Debt  
T-Property



Virginia.

To the Honorable W. L. Miller, Judge  
of the Circuit Court of Lee Co., Va.:

Humbly complaining your  
Orator Bennett Bailey would re-  
spectfully represent and shew unto your  
Honor, that heretofore, to wit; on or  
about the day of 1894,  
one James Cormicheal purchased a  
quantity of poplar timber in the  
Crab Orchard in said County, for  
the purpose of manufacturing the  
same into lumber, and on or  
about the day of March 1894,  
the said Cormicheal employed  
your orator to log said timber to  
the said mill yard for said purpose  
and agreed with and bound himself  
to pay your Orator for said logging  
the sum of \$2.75 per one thousand feet,  
the same to be paid when said logs were  
sawed into lumber and the lumber  
had been on stick sixty days, and  
the said Cormicheal further agreed  
with your orator that to secure to him  
the payment for his said services the  
said logs and lumber manufactured  
therefrom should be and remain



his property until his said claim was fully paid. This contract was not reduced to writing, but your orator suggested at the time that it should be and the said Cormicheal replied that it was not necessary, that there were witnesses to the contract, witnesses having been called for the purpose, and that that was all that was necessary, and your orator so concluded and the contract was not reduced to writing - your orator went on and completed the contract upon his part and the said Cormicheal paid him sum thereon, and afterwards to wit; on or about the day of July 1894, he and said Cormicheal made a settlement in regard to said work, and ascertained that there was then due your orator the sum of \$184.00, and your orator then demanded payment of said sum, the same being then due, but the said Cormicheal failed to pay the same and your orator has since demanded payment thereof from said Cormicheal, but he has failed & refused & still fails & refuses to pay the same to your orator, and in fact will not talk to your orator about



paying the same, and is now engaged  
with several teams removing & hauling  
said lumber to Punnington Gap on the  
L. & N. R.R., where your orator is informed  
he has sold the same or is selling the  
same to one N. L. Johnson, Now,  
the object of this bill is to enjoin,  
restrain & inhibit the said Cormick  
& all others from selling, removing  
or otherwise disposing of said lumber  
until your orator's claim for said  
balance of \$184.00 is fully paid  
and that on a final hearing a  
decree be rendered in favor of your  
orator for the specific performance  
of said contract by said Cor-  
mick, your orator having per-  
formed the same upon his part,  
and that so much of said lumber  
be sold as is necessary to pay your  
orator's said claim & the costs of this  
suit. To this end he makes the said  
Cormick the party defendant to  
this bill & prays that he be required  
to answer the same, but not on oath  
that being expressly waived and that  
the relief prayed for be granted, and such  
other, further & general relief as your



Burnett Bailey

vs. Bill.

James Cornicheal

Injunction granted pursuant to the  
prayer of the within bill inhibiting the  
the defendant from removing selling  
or otherwise disposing of the logs & lumber  
in the tract thereon till the further  
order of this Court either in term or  
on vacation, but the injunction is  
not to be operative till the 1st of  
Nov. or for him appointed as  
required by law in the sum of  
\$500 - Corde to be paid to pay all such  
Costs and damages may be incurred  
or sustained by any one by reason of  
serving out this injunction July 26. 1894

W. J. Miller

Mr. Blankenship & Ewing,  
P. G.

your orator may be entitled to - And that  
process be issued. Directed. &c., And  
your orator will ever pray, &c.,

Mr. Blankenship & Ewing, P. G.  
Virginia, U. S. Circuit Court Clerk's  
Office.

I, A. B. Murney, Clerk of said Court  
do certify that John Bailey this day  
personally appeared before me in  
my said office and made oath  
that all the allegations in the  
foregoing bill stated, as coming  
within his own knowledge he  
knows to be true & all others resting  
upon the knowledge or information  
of others he believes to be true.

Given under my hand, this  
the 18th day of July 1894.

A. B. Murney Clerk



Virginia.

To the honorable W. T. Miller Judge of  
the Circuit Court of Lee County,  
Humbly Complaining your orator John  
Bailey, would respectfully represent and shew  
unto your honor, that heretofore to wit. on  
or about the day of 1894, one  
James Carmichael purchased a quantity of  
poplar timber in the Oak Orchard in said  
County, for the purpose of manufacturing  
the same into lumber, and on or about the  
day of March 1894, the said Carmichael  
employed your orator to log said timber  
to the saw mill yards for said purpose  
and agreed with and bound himself to pay  
your orator for said logging the sum of  
\$2.50 <sup>for one yard and \$2.75 for the other</sup> per one thousand feet, the same to be  
paid when said logs were sawed into  
lumber and the lumber had been on stick  
sixty days, and the said Carmichael further  
agreed with your orator that to secure <sup>to</sup> him  
the payment for his said services the said  
logs and lumber manufactured therefrom  
should be and remain his property until  
his said claim was fully paid. This Contract  
was not reduced to writing, but your orator  
suggested <sup>at the time</sup> that it should be and the said  
Carmichael replied that it was not necessary



that there were witnesses to the Contract, witnesses having been called for the purpose, and that that was all that was necessary, and your orator so concluded and the Contract was not reduced to writing. Your orator went on and completed the Contract upon his part and the said ~~Carmichael~~ paid him soon thereon, and afterwards to wit. on or about the day of July 1894, he and said ~~Carmichael~~ made a settlement in regard to said work and ascertained that there was then due your orator the sum of \$182.06 and your orator then demanded payment of said sum the same being then due, but the said ~~Carmichael~~ failed to pay the same and your orator has since demanded payment thereof from said ~~Carmichael~~ but he has failed and refused <sup>and still fails & refuses</sup> to pay the same to your orator, and in fact will not talk to your orator about paying the same, and is now engaged with several teams removing and hauling said lumber to Pennington Gap on the L. & N. Rail Road, where, your orator is informed, he has sold the same, or is selling the same, to one N. L. Johnson. Now the object of this bill is to enjoin



restrain and inhibit the said Carmichael,  
and all others, from selling, removing  
or otherwise disposing of said lumber,  
until your orator's claim for said balance  
of \$182.06 is fully paid, and that on a final  
hearing a decree be rendered in favor  
of your orator for the specific performance  
of said contract by said Carmichael, your  
orator having performed the same upon  
and that so much of said lumber be sold as is necessary to pay your orator's  
his part. To this end he makes the said  
Carmichael the party defendant to this  
bill, and prays that he be required to  
answer the same, but not on oath,  
that being expressly waived, and that  
the relief prayed for be granted, and such  
other further and general relief as your orator  
may be entitled to, and that process be  
issued directed &c. And your orator  
will ever pray &c.

Or Blackenship & Ewing.  
- P. 2 -

Virginia Lee County Circuit Court Clerk's office.

I A. B. Munsey Clerk of said Court, do certify  
that John Bailey this day personally appeared  
before me in my said office, and made oath  
that all the allegations in the foregoing bill,  
stated as coming within his own knowledge,  
he knows to be true, and all others resting



upon the knowledge and information of  
 others, he believes to be true,  
 Given under my hand, this 18th day of  
 July 1894.

A B Munsey Clk.

Injunction granted pursuant to the  
 prayer of the within bill restraining  
 the defendant from removing selling  
 or otherwise disposing of the logs & lumber  
 in the bill mentioned till the further  
 order of this Court either in term time  
 or vacation But this injunction is not  
 to be operative till the plff or someone for him  
 executed and in the penalty of \$500 Conditional  
 to pay all such costs & damages as may be incurred  
 or sustained by anyone by reason of seeing  
 out this injunction. N L M. Plr  
 July 20 1894

John Bailey

vs. Bill.

James Cornick

Wm. Chas. Smith & Co. Secy.  
 P. Q.

275-  
 200  
 475



To the Hon. Wm. T. Miller, Judge of the Circuit Court of Lee County, Virginia.

The amended and supplemental bill of your Complainant, John Bayley, respectfully sheweth unto your Honor that he hertofore exhibited in this Honorable court his original bill of Complaint against James Carmichael, and to which bill refference is here made, and the same is prayed to be taken as a part of this amended and supplemental bill as if here copied, that the said original bill was presented to your honor in vacation, and pursuant to the prayer of your complainant, your orator granted an Injunction which is in the following figures and words, to-wit; "Injunction granted pursuant to the prayer of the within bill restraining the defendant from removing selling or otherwise disposing of the logs and lumber in the bill mentioned till the further order of the court either in term time or vacation, but this injunction is not to be operative till the plaintiff or some one for him executes bond in the penalty of \$500.00 conditioned to pay all such cost and damages as may be incurred or sustained by any one by reason of suing out this injunction.

W. T. Miller.  
July 26, 1894."

Your orator will further show unto your honor that he, on the \_\_\_\_ day of \_\_\_\_ 1894, pursuant to the said order in the said original bill, gave bond as required, before the clerk of this Court, and thereupon had process issued in said original bill and the same was duly executed on the said Carmichael, and was thereupon returned to the clerk's office of Lee County, Va.; that since the date of the said order in the said Injunction, to-wit /, about the 16th day of August, 1894, the said Carmichael left this State taking with him his family, and all the property that he well could and he is now a non-resident of this State; that the whole of the said money alleged to be due in the said Original bill is still due and unpaid.



Your orator will further show unto your honor ;(a fact not known to him at the time of the filing of his original bill), that A. Johnston claims some interest in said lumber mentioned in said original bill, but ~~what~~<sup>at</sup> he does claim is not exactly known to your orator.

Your orator will further show unto your honor that ~~that~~ the said Carmichael has estate in this State and County; that the said Carmichael is converting, or is about to convert and has converted his property or some part thereof, into money, securities and evidences of debt with the intent to hinder, delay, and defraud his creditors and especially XXXX your orator; that he has assigned and disposed of and ~~x~~ is about to assign and dispose of, his estate or some part thereof, with the intent to hinder delay and defraud his creditors; and that ~~he~~<sup>James A. Johnston</sup> has made an affidavit as required by section 2964 of the Code of 1867, and here files the same, and ~~marks~~<sup>marks</sup> it, "Affidavit".

Your orator will further show unto your honor that on the ~~th~~ day of December, 1894, he entered into an agreement ~~with~~ said A. Johnston, the nature and purport of the same may be seen from an inspection of a copy of the same here filed and marked "Agreement": it will be observed that the agreement ~~only~~<sup>only</sup> pertains to the lumber and logs mentioned in the said Original bill and not to any other; that the said Carmichael has estates and effects in this State outside this particular logs and lumber, and it is that which he desires to have attached.

The premises considered your orators prays that the said James Carmichael and A. Johnston be made parties to this amended bill, that they be required to answer the same but not on oath, that being waived, that an order of publication be made against the said James Carmichael, that an attachment issue, to be levied



on effects of the said Carmichael, other than that mentioned in  
the said paper here filed and marked "Agreement", sufficient to  
pay the debt of your said orator and the cost of this suit; that  
the said Johnston disclose what interest he has if any in the said  
lumber, and how he obtained the same.

And may all further and general relief be granted your orator  
that good conscience and equity may require: And your orator,  
will as in duty bound ever pray &c.

Orr, Blankinship and Ewing,

Pennington Bros., p. q.



John Bayley Com.  
v. Amended Bill  
James Carmichael et al

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O. B. Va. Sup. P. B. Va. 1894.

1894 1st Oct Rules amended bill  
filed Sp. 2d on A Johnson  
& Contd for Ord Pub on  
non resident

" 2nd Oct Rules & Contd as to  
residents & Contd for O P

" 1st Nov Rules taken the  
last Monday in Oct Ord  
Pub Compltd & cause set for  
hearing

1895 March Term Decree  
final. See Chas ord  
& Book Page 185.

Plffs Costs

C 7.99  
S



To the Hon. Wm. T. Miller, Judge of the Circuit Court of the  
County of Lee .

The amended and supplemental bill of your complainant, Bennett Bayley, respectfully sheweth unto your Honor that he heretofore exhibited in this court his original bill of complaint against James Carmichael and to which bill, reference is here made, and the same is prayed to be taken as a part of this amended and supplemental bill as if here copied, that the said original bill was presented to your honor in vacation, and pursuant to the prayer of your complainant, your honor granted an injunction which is in the following words and figures to-wit: "Injunction granted pursuant to the prayer of the within bill, inhibiting the defendant from removing, selling or otherwise disposing of the logs lumber in the bill mentioned till the further order of this court, either in term time or vacation, but this injunction is not to be operative till the plaintiff or some one for him executes bond as required by law in the penalty of \$500.00, conditioned to pay all such cost and damages incurred or sustained by any one by reason of suing out this injunction. July 20, 1894."

Your orator will further show unto your honor that he, on the \_\_\_\_\_ day of \_\_\_\_\_ 1894, pursuant to the requirements of said order in said original bill, gave bond as required, before the clerk of this court, and thereupon had process issued in said original bill and the same was duly executed on the said Carmichael and was thereupon duly returned to the clerk's office of Lee County, Va.; that since the date of the said order in the said injunction, to wit about the 16th day of August, 1894, the said Carmichael left this State, taking with him all his family and all the property that he well could, and he is now a non-resident of this state; that the whole of the said money alleged to be due in the original bill, <sup>of your complainant</sup> is still due and unpaid.



Your orator will further show unto your honor ;(a fact not known to him at the time of the filing of his original bill), that V A. Johnston claims some interest in said lumber mentioned in said original bill, but what he does claim is not exactly known to your orator.

Your orator will further show unto your honor that ~~that~~ the said Carmichael has estate in this State and County; that the said Carmichael is converting, or is about to convert and has converted his property or some part thereof, into money, securities and evidences of debt with the intent to hinder, delay, and defraud his creditors and especially ~~XXXX~~ your orator; that he has assigned and disposed of and ~~x~~ is about to assign and dispose of, his estate or some part thereof, with the intent to hinder delay and defraud his creditors; and that ~~he~~ <sup>your orator</sup> has made an affidavit as required by section 2964 of the Code of 1887, and here files the same, and <sup>u</sup>marks it, "Affidavit".

Your orator will further show unto your honor that on the 4th day of ~~September~~, 1894, he entered into an agreement with said A. Johnston, the nature and purport of the same may be seen from an inspection of a copy of the same here filed and marked "Agreement": it will be observed that the agreement only pertains to the lumber and logs mentioned in the said Original bill and not to any other; that the said Carmichael has estates and effects in this State outside this particular logs and lumber, and it is that which he desires to have attached.

The premises considered your orators prays that the said James Carmichael and A. Johnston be made parties to this amended bill, that they be required to answer the same but not on oath, that being waived, that an order of publication be made against the said James Carmichael, that an attachment issue, to be levied out of



on effects of the said Carmichael, other than that mentioned in the said paper here filed and marked "Agreement", sufficient to pay the debt of your said orator and the cost of this suit; that the said Johnston disclose what interest he has if any in the said lumber, and how he obtained the same.

And may all furthur and general relief be granted your ~~or~~ator that good concience and equity may require: And your orator, will, as in duty bound, ever pray &c.

Orr, Blankinship and Ewing,

Pennington Bros., p. q.

P. L. R.



Plffs costs

Bennett Bayley, Com.

vs. Amended Bill

James Carmichael, Exs.

O. B. & C. Aug. P. / Burr p. 9.

- 1894 1st October Rules Amended  
bill filed, Spa 4 Don A  
Johnson & D. N. as to him  
& Contd. for O P for non  
resident
- " 2nd Oct D N confd as to A  
Johnson & Contd. for O P
- " 1st Nov Rules taken the last  
Monday in Oct, O P Comptt  
& Cause set for hearing
- " Nov Term Contd
- 1895 March Term Decree  
final See Chcy  
order Book 5 Page  
185



To the Honorable W.T. Miller, Judge of the Circuit Court  
for Lee County, Virginia:

The separate demurrer and answer of A. Johnson to a bill  
*and amended and supplemental bill*  
of complaint exhibited against him and another in this honorable  
court by Bennett Bailey.

Respondent says that the complainant's bill is not sufficient in law to call upon him to answer it in this honorable court, but that there is good cause of demurrer thereto, and he demurs accordingly, and ~~prays~~ judgement of his said demurrer &c. And not waiving said demurrer, but relying and insisting thereon, should other and further answer be required of him, answering, he says:

That it is true that the said complainant exhibited before this court his original bill; <sup>against James Carmical</sup> that an injunction was ~~given~~ granted thereon pursuant to the prayer of the bill exhibiting the defendant from removing, selling and otherwise disposing of the logs and lumber in the bill mentioned till the further order of the Court; but said injunction was not to be operative till the complainant or some one for him executed bond in the sum of \$500.00 conditioned to pay all such costs and damages incurred or sustained by anyone by reason of the suing out of said injunction. But respondent denies that a sufficient bond was given. It is true however that the complainant pretended to execute bond before the Clerk of this court, but according to his information and advice the sureties therein are not solvent and good.

It is true that since the granting of said injunction, and about the middle of August 1894, ~~and~~ the said Carmical left this State taking his family with him. Respondent has no knowledge of what property he carried away with him. Respondent knows nothing of what property the said Carmical took with him when he left the State.

Respondent has no knowledge of any estate belonging to the said Carmical situated in this county or in this State, except as he will hereafter show in reference to dealings be-



tween himself and said Carmical.

Respondent says it is true that on the 4th day of Sept. 1894, he entered into an agreement with the plaintiff and one John Bailey who has a suit of the same kind as this, and the paper marked agreement is a duplicate of said contract. Under this agreement respondent deposited in the Pennington Gap Bank \$425.00 to the credit of said suits to be applied to the settlement of the claims therein asserted in the event said complainants should establish the justness of their claims and that said claims constitute liens upon said lumber and logs superior in dignity to his, your respondent's, claim upon said lumber by reason of his purchase thereof.

Respondent will now show your honor that he knows nothing whatever of the justness of the claim asserted by the said Complainant either in his original or amended and supplemental bill and he requires strict proof of the same. But he denies that said claim even if just is a lien upon the lumber, logs &c. mentioned by the complainant in his original bill. To make it a lien it was necessary that the contract between him and the said Carmical by which he undertook to retain the title to the logs and lumber should have been reduced to writing executed by both parties and that writing or a proper memorandum of it recorded in the clerk's office of Lee County, or docketed therein, he having delivered the said logs so hauled by him to the said Carmical as he shows in his bill. Said Carmical had the same sawed and put on the stick, and in fact a great deal of it had been hauled away by the said Carmical without any complaint whatever from the said Bailey.

Respondent will now show your honor <sup>that he</sup> without any knowledge whatever of the claim of the said Bailey to said lumber or any part of it, without any knowledge that he had any interest whatever in said lumber or the logs from which it was manufactured, bought the same from the said Carmical as will more fully appear by reference to the written contract between the said Carmical and this respondent, dated on the 17<sup>th</sup> day of



February 1894., a copy of which is here filed as part hereof marked "X". An inspection of said contract will show your honor that before the said Bailey claims to have made the contract stated by him in his original bill, respondent had contracted with <sup>the said Carmical</sup> ~~him~~ to be for the lumber manufactured by him amounting to from 500,000 to 800,000 feet, to be the first lumber so manufactured by him, said lumber to be delivered to your respondent at Pennington's Gap, at \$19.50 for first and second, at \$13.50 for commons and saps, and at \$7.00 for culls. And it was further stipulated in said contract that respondent was to pay said Carmical \$9.00 per thousand feet for all the lumber manufactured on the three first yards as soon as said lumber was sawed and put on stick, and the mill moved away, and \$8.00 per thousand feet on the other yards thereafter sawed. , The amount of lumber thus to be apaid for ~~what~~ ~~xxxx~~ when on stick as aforesaid to be determined either by log measure or by a careful estimate after the lumber was put on stick at the election of respondent. Respondent received the lumber made at the first and second yards, the same being delivered at Pennington's Gap by said Carmical. The logging at these yards having been done by the said John and Bennett Bailey. The third yard as it is designated and understood by Carmical and respondent really being two yards close together and on the same land, and being called by the defendants the Cooney sets ~~is~~ No.1. and 2., is the lumber mentioned by the complainant in his original bill, the removal of which was enjoined by the said Bennet and John Bailey as herein-before stated. This lumber was sawed, put on stick, and the mill removed from it about the latter part of June or first of July, at which time your respondent without any knowledge of any lien, claim or ownership by the said Baileys or either one of them of said lumber or any part of it, estimated the same and paid to the said Carmical \$9.00 per thousand feet for all the lumber there manufactured. The lumber thus estimated and paid for at said two sets was 170,000 feet. The said Bennett and John Bailey had full knowledge that respondent was paying ~~the~~ said Carmical



cal for said lumber ; in fact they received some of the pay themselves, and they had knowledge that ~~he~~ had estimated said lumber with a view of paying for it, one or both of them being present at the time respondent so estimated the quantity of it.

Since the agreement and the deposit of the money pursuant to that agreement referred to by the plaintiff in his amended and supplemental bill, respondent has had said lumber hauled to Pennington's Gap. Respondent has had to pay for the hauling of the same at a cost of from \$2.50 to \$3.00 per thousand feet. The said Carmical was to pay for the trees out of which said lumber was manufactured out of the \$9.00 per thousand and paid to him when it was put on stick, but he failed to pay to the Crab Orchard Coal and Iron Company for all the timber purchased from them and respondent has had to pay \$78.00 to them for said timber. The said Carmical now owes your respondent from \$400.00 to \$600.00 on this contract. This set fell short of the estimate about 15,000 feet. This sum which the said Carmical owes respondent on said lumber contract does not include the \$425.00 deposited in the Pennington Gap Bank, pursuant to said agreement.

Respondent will now show your honor that ~~he~~ ~~has~~ the lumber attached on ~~it~~ under the amended and supplemental bill, to wit 30,000 feet on the Roda Smith land, and 30,000 feet on the Jasper Kelly land is also a part of the lumber purchased by respondent from the said Carmical under said contract aforesaid, and upon this lumber, he paid to the said Carmical and on the purchase price of the timber which Carmical had failed to pay, for sawing it &c. from \$9.00 to \$11.00 per thousand, which is fully as much as it is worth where it is located, all of which was paid before said attachments were sued out or levied upon it. And in addition to this H.J. Russell, M.C. Parsons and J.F. Skaggs had levied attachments on said lumber before the attachments were levied in this suit, and on these attachments thus levied by the said Parsons, Russell and Skaggs respondent had given Forth-Coming bonds before the service of



the attachments of the said John and Bennett Bailey under their amended and supplemental bills; and before the levy of the same.

Your respondent will now show your honor that by said injunction in said two causes of John and Bennett Bailey they ties up 170,000 feet of lumber worth where it was then located \$9.00 per thousand, and on which your respondent had paid \$9.00 per thousand, to pay and satisfy two alleged debts of \$184.00 and \$182.00. And in order to get the opportunity of removing it while the weather was good, the roads passable he had to and did deposit the sum of \$425.00, and not satisfied with that said complainants to further harass and annoy respondent amended their bills, sued out attachments, and had the same levied on 60,000 feet of lumber on the lands of Roda Smith and Jasper Kelly for which your respondent had already paid the said Carmical under his contract with him as aforesaid \$600.00 at the least and for the delivery of which in other attachments he had executed his bonds as aforesaid.

Respondent asks that said injunctions be dissolved; said attachments dismissed, and that he be quieted in the possession of the property for which he has paid. And now having answered, he prays to be hence dismissed &c.

*A. R. Pridemore*

*Duncan & Hyatt, p. d.*

*Sworn to before me by A Johnson  
This the 16<sup>th</sup> day of November 1894  
A B Mursey Clerk*



A. Johnson. et al.

ado. W. A. Dusen -

Bennett Bailey

Duncan Wyath, D.D.



Bennett Bailey  
 Against  
 A. Johnson et al  
 and  
 John Bailey  
 against  
 A. Johnson et al

}

In chy.

These causes  
 came on again this day to be  
~~again~~ heard upon the papers  
 formerly read, and the dep-  
 ositions of witnesses; and was  
 argued by Counsel. On con-  
 sideration of which and for  
 reasons appearing to the Court  
~~it~~ is adjudged ordered and  
 decreed, that A. Johnsons lien  
 upon the lumber attached is  
 superior to the plffs, and that  
 said lumber is first subject to  
 to the payment of the said A.  
 Johnsons debt; And it appearing  
 from the evidence that James  
 Leammishaw owes the said  
 Johnson a greater sum than  
 the value of said lumber, -  
 It is adjudged ordered & decreed  
 that that each of the ~~plffs bills~~



John Bailey and  
Bennett Bailey

2- Decree

Friend.

A. Johnson

March 7. 1895.

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Page 18<sup>3</sup>

Enter this

March 15, 1955

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did not in further adjudged, and decreed that the plaintiff  
 Kenneth Bailey recover against the defendant James B. Bernal the  
 sum of \$184.00 with interest thereon from the date of July 1894 until  
 paid, the costs of his suit, and that John Bailey recover against  
 the被告 Bernal \$82.06 with interest thereon from the 31st day  
 of 1894 until paid, and the costs of his suit, for which  
 the defendant may issue in favor of said plaintiff a writ of  
 execution.

attachments be obtained and each of said  
 judgments in said Causes be  
 and they are hereby dissolved  
 and the ~~plffs~~ bills are each dis-  
 missed, <sup>as to, said John Bailey</sup> and it is ordered that  
 John Bailey <sup>defendant, A. Johnson</sup> pay to the ~~plff~~  
 the <sup>cost</sup> of this suit and that  
 Bennett Bailey <sup>said Johnson</sup> pay the <sup>cost</sup> of  
 his suit. And it further ap-  
 pearing that A. Johnson <sup>has</sup>  
 heretofore deposited the sum of  
 \$425.00 to the credit of these suits  
 leave is given him to withdraw  
 the same. And no further  
 action being necessary, these  
 Causes are stricken from the  
 docket, without prejudice  
 to the ~~plffs~~ to assert their claims  
 against the said James Leavitt.

\* it appears to me  
that the the  
same person  
has been  
with proves in the  
course,



John Bailey  
against  
James Carmichael et al  
and  
Bennett Bailey  
against  
James Carmichael et al.

On motion  
of A. Johnson these causes are  
Consolidated and brought on to  
be heard together, and on his  
motion leave is granted him  
to file his ~~demurrer~~ and  
Answer which are accordingly  
filed <sup>to day</sup> ~~the~~ <sup>Bill</sup> ~~demurrer~~ <sup>is</sup> ~~filed~~  
is over ruled, and it appear-  
ing that said Johnson has  
deposited the sum of \$425 ~~and~~  
to the Credit of these suits  
It is decreed that the said  
Johnson on executing a bond  
in a penalty of eight hundred  
with ~~proper~~ <sup>personal</sup> security before ~~the~~ <sup>the</sup> ~~court~~  
of fifty dollars, ~~consent~~ <sup>shall</sup> ~~to~~  
duly pay all sums that  
may hereafter be decreed against  
him in these causes or either  
one of them, shall be allowed  
to to have & receive said \$425 <sup>and</sup>



Bennett John Bailey

23 Dec 1894

James Carmichael  
et al

Nov. 7. 1894

Entered in chp  
Or B. Page 126

Enter this  
Nov. 17 1894  
W. J. M.

As deposited by him, can the  
H. H. reply to said answer  
for the evidence are contained.



To A. Johnson =-

You are hereby notified that on the 6th day of February, 1895 at the office of A.T. Bowen in the town of Rogersville, Tennessee, between the hours of 7 A.M. and 7 P.M. of that day, *in our behalf* we shall proceed to take the deposition of Jas. Carmichael to be read as evidence in *two certain chancery cases pending in the Circuit Court of Lee County, Virginia and* causes which were at the November term of the Circuit Court of Lee County, 1894, directed to be heard together, wherein we are plaintiffs and you are defendant; and if from any cause the taking of the said depositions be not concluded on that day, the taking thereof will be adjourned from day to day and from time to time, and from place to place, until the same are completed.

Yours very truly,

Bennett and John Bailey, per

Pennington Bros.



Virginia, Lee County, to-wit:-

I, A.G. Hyatt, a notary public in and for the County and State  
aforesaid, do hereby certify that R.W. Pennington personally appeared  
*in my County aforesaid*  
before me and made oath that he on the 31st day of January, 1895, de-  
livered a copy of the within notice to A. Johnson. Given under my  
hand this the 1<sup>st</sup> day of Feb 1895.

*A.G. Hyatt*

N.P.

*Bayless*

*on notice*

*Johnson and  
Leavich*



1.

State of Tennessee

Hawkins County

The deposition of James Carmichael taken before me A. T. Bowen a Notary Public in and for the County and State aforesaid at my office in the town of Rogersville, Tennessee, pursuant to a notice hereto annexed on the 7th. day of Feby. 1894,

between the hours of 7 A. M. and 7 P. M. to be read in evidence in

XX

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX two certain Chancery causes brought on to be heard together and now pending in the Circuit Court in the County of Lee, in which Bennett Bailey and John Bailey are Complainants and James Carmichael and A. Johnson are defendants, in behalf of the Complainants in the said cause.

Present R. L. Pennington Complainants Atty. and Judge C. T. Duncan, Atty. for A. Johnson and James Carmichael for himself.

The witness James Carmichael being duly sworn deposes as follows:

Ques. 1. State your name age and residence?

Ans. My name is James Carmichael, I am 37 years old and I reside in the town of Rogersville, Tennessee.

2. Did you not formerly live in Lee County and when did you leave there?

Ans. I did and left there sometime in August 1894.

3. At the time you left there did you leave any property? if so, what was it?

Ans. I left what lumber and logs I had on hands and my household and kitchen furniture and an old saw mill.

4. Did you owe to John and Bennett Bailey any some of money, if so how much to each?

Ans. I owed them but cannot state the amount I owed either of them.

5. Did you not owe Bennett Bailey as much as the sum of \$184.00 the amount claimed by him in his O. Bill?

Objected to by A. Johnson because leading.

Ans. I can't say that owed him that exact amount but I owed him something over \$150.00.

6. Did you not owe John Bailey as much as the sum of \$182.66?

Ans. Objected for same reason above stated.

Ans. I owed John Bailey to the best of my knowledge \$160.00.

7. For what did you owe John and Bennett Bailey these sums of money?



Ans. It was for logging.

8. Was there an agreement between you and Mess. Bailey concerning the securing of their work at this logging, if so what was it?

Ans. There was a verbal agreement, which was that Mr. Bailey was to do the logging at different prices and during the time of his logging I was to pay him any thing he should need in the store while doing this logging and I agreed to pay him the remainder of his account after each set was sawed and put on stick, with the understanding that the lumber was to stand good for the logging of said timber until it was settled for, this agreement was made on the first <sup>set</sup> and nothing

9. further said about it.

9. Was it not your understanding that this contract that the logs and lumber should stand good for the logging on all the work which they did

Ans. Objected to, the witness has already stated the contract and it is the business of the Court to construe it and his understanding of it is not admissable for any purpose.

Ans. My understanding or at least I looked at it in that way that <sup>the labor</sup> <sup>& lumber</sup> should be a lien on the logs, which they hauled.

10. Was it your understanding that the lien on this lumber would apply only to sets #1 & #2?

Ans. No I did not understand it that way, we made this agreement on sets 1 & 2 that the lumber out of those sets would stand good for the price of logging.

11. Did you understand that this agreement continued on the other work done by the Baileys?

Ans. Objected to for the same reason last stated.

Ans. I supposed it did.

12. How much lumber did you leave in the Pocket Country <sup>the labor</sup> and on the side tract?

Ans. To my best recollection I left about 390 or or four hundred thousand feet of logs and lumber together, about three hundred thousand feet of lumber and about one hundred thousand feet of logs.

13. How much was the lumber worth per thousand and how much the logs?

Ans. The lumber ought to be worth about \$11.00 a thousand on the yard, and the logs from \$5.50 to \$6.00 per thousand.

14. Did A. Johnson have any interest in this lumber other than arising under the contract?



3.

entered into by you and him on the 17th. day of Feby. 1894?

Ans. He had an interest in ~~xxxx~~ the lumber to the extent of his advancements on sets 3 & 6.

15. Did he have any interest in the other lumber on which he had made no advancements? which was situated in the Crab Orchard Country?

Ans. None only by virtue of our contract.

16. When you made your answer to question 12 did you include all the lumber or only that situated in the Crab Orchard Country?

Ans. I only included the lumber <sup>& logs</sup> that was left by me in the Crab Orchard Country ~~xxxx~~ when I left there.

17. How much more lumber beside this did you leave?

Ans. I left from somewhere between thirty and forty ~~hundred~~ thousand feet between the depot and cattle pen on the side tract at Pennington Gap.

18. and logs about thirty to forty thousand feet in the Pocket Country on set 13.

18. Did you leave a quantity <sup>of lumber</sup> amounting to about 30000 feet on the lands belonging to Rhoda Smith and about the same quantity on the lands belonging to Jasper Kelley?

Ans. My best recollection I left somewhere from forty to fifty thousand feet on the Rhoda Smith land and the amount of the Jasper Kelley timber I don't remember whether it was thirty or forty thousand feet.

19. Did A. Johnson have <sup>any</sup> interest in this lumber other than that arising from the contract with him dated Feby. 17th. 1894

Ans. He had none only by virtue of that contract and the advancements he had made me on those sets.

20. How much money all together did you owe A. Johnson at the time you left Pennington Gap?

Ans. I owed A. Johnson himself from \$400.00 to \$500.00 to my best recollection, my best recollection of the account ~~was~~ <sup>at</sup> Johnson's store was that it was from \$1100.00 to \$1200.00.

Cross-Examined.

Ques. 1. In answer to question 8 of your examination in Chief you state there was a verbal agreement between you and the Baileys that you were to pay them such things as they needed in the store during the time of logging and to pay the remainder after each set was sawed and ~~out~~ on ~~a~~ stack, with the understanding that the lumber was to stand good for the logging of said timber until it was settled for, when and



4.

where was this contract made?

Ans. The contract was made in the spring of 94 in March I think and as to where we was at I am not positive.

2. Who was present when said contract was made?

Ans. I can't answer that either.

3. Was any other person present you and said Bailey?

Ans. These contracts were not both made at the same time, I think the contract with Bennet Bailey was first made. I do not remember when or where the said contract was made, whether in the Crab Orchard or down at Pennington Gap and am unable to state whether any other person was present or not. My recollection is that the first time John Bailey and myself had any talk in regard to our trade was on Sunday he came to my house at Pennington Gap Ned Parsons with him to see me in regard to this logging and whether we came to our agreement then or afterwards I can't state.

4. When John and Bennet Bailey hauled the logs for you where and to whom did they deliver them?

Ans. They delivered the logs at the several sets to which they hauled them on the ground pointed out by me for the purpose and I there received them.

5. After the lumber was sawed and put on stick at these several sets did it remain in your possession until you left Lee County, if not in whose possession was it?

Ans. Sets one and two had been hauled to the R. R. & delivered to Mr. Johnson set 3 and the small set at Cooney Chapel I had commenced delivering at the side tract at Pennington Gap when John and Bennet Bailey had injunctions served on me inhibiting me from removing said lumber.

6. From the time said lumber was sawed and put on stick until you got ready to haul it in whose possession was it?

Ans. It was in my possession.

7. Who hauled ~~sets~~ for you sets #1 & #2?

Ans. Bennett Bailey logged set one and John Bailey logged set 3.

8. Had you paid them up entirely on the hauling of these sets or is a part of their claim against you for logging done on sets one and 2?

Ans. I had paid John Bailey up, probabilities are that I owed Bennet Bailey about \$30.00 on set one which is a part of his claim that he is now serving against me.



9. Had you and the Baileys made a settlement before you left Lee County by which you ascertained the exact balances due each one of them?

Ans. I had a kind of settlement with the boys before I left there, they come to my house and we got our books and made a settlement, I am not positive whether we settled all of our little outside items or not but I rather think that we settled entirely.

10. Is that settlement reduced to writing, and if so where is it?

Ans. At that time I think we had our books in such shape that each would show how each stood. I left my books in Pennington Gap in my desk.

11. ~~XXXXXXXXXXXXXXXXXXXX~~ What was the value of sawing by the thousand feet in that Country where these several sets were located?

Ans. It was generally considered worth about \$3.00 per thousand for sawing and sticking.

12. In answer to question 13 you say that logs were worth \$5.50 to \$6.00 per thousand feet and that lumber was worth about \$11.00 per thousand feet on the yard how do you make that difference? and get lumber up above \$9.00 per thousand?

Ans. \$11.00 per thousand is my estimated value of the lumber after it was on the sticks.

13. In answer to question 20 you say you owed Mr. Johnson from four to five hundred dollars and N. L. Johnson at store account of \$1100<sup>00</sup> or \$1200<sup>00</sup>, does that sum of \$400.00 or \$500.00 or the account of \$1100.00 or \$1200.00 include the amount or any part thereof that Mr. Johnson has paid to parties from whom you purchased timber since you left there?

Ans. It does not. ~~include the~~

14. I now show you a paper which purports to be an account and settlement ~~XX~~ between you and Mr. Johnson on the the two Cooney sets please tell me if the same is correct as you can best remember?

Ans. I don't regard it as a final settlement but after the lumber was put on stick Mr. Johnson and myself made an estimate of the lumber on said yards and so far as the figures are concerned on this paper I of course cannot tell whether they are correct or not but so far as my knowledge goes I see no error in them known to me. The lumber for which I am credited is from one hundred <sup>sixty</sup> to one hundred and sixty <sup>three</sup> thousand feet, Mr. Johnson and myself estimated said lumber on stick at



one hundred and seventy thousand feet which estimate I thought was small; that is I thought when the lumber was measured that it ~~was~~ would measure out more than the one hundred and seventy thousand feet. My account as here presented seems larger to me than ~~it~~ I thought it was.

Said paper is marked set 3, Carmichael.

It is agreed that either party to the suits in which this deposition is taken may read in connection with it and as a part of this deposition the deposition of this witness in the cases of H. J. Morgan and J. F. Scaggs VS said Carmichael now pending in the County Court of Lee County which depositions have this day be taken and we further waive the addition of a formal certificate to this deposition and agree that it be read without such certificate and further this deponent saith not.

James Carmichael

Rogersville Tenn.

July 8, 1894

It is agreed that this deposition may be read without the certificate of the Notary or his seal -

Dunsmuir Bros.

Attys for John T. Burt & Bally-

Dunsmuir & Hyatt  
Attys for A. Johnson



Depo. of James Carmichael

Bennett Bailey, chal.

vs } In Chancery

James Carmichael

Witness for 2 days. \$1.00

Notary's fee for taking Depo. \$2.80  
\$3.80

A. T. Brown A. R.

Notary's fees paid by Plaintiff



John & Bennett Bailey Plffs }  
vs. } In Equity.

James Carmichael et al Deft

The deposition of E. W. R. Ewing  
taken before me H. C. Gaslyn a  
Justice of Peace for the County of  
Lee and State of Virginia. by  
Consent, at the law office of our  
Plaintiff & Ewing in the Town  
of Jonesville Lee Co Va on the  
9<sup>th</sup> day of March 1895. to be read  
as evidence in behalf of the Plaintiffs  
in a certain suit in equity now depen-  
ding in the Circuit Court of Lee County  
wherein John & Bennett Bailey are  
Plaintiffs and James Carmichael & others  
is defendant.

E. W. R. Ewing a witness of lawful age  
being duly sworn, deposes as follows.  
by Plffs Counsel.

Ques

Did you have a conversation with A. Johnson  
at anytime in regard to the lumber he claims  
to have purchased from James Carmichael  
and the removal of which was enjoined  
in the above mentioned causes, and if so  
when, <sup>where</sup> was it and what did he say in re-  
gard thereto?

Ans

I had a conversation with A. Johnson  
in regard to this lumber. This con-  
versation, occurred here in Jonesville



in the Court room of the Court house, This was sometime after the action had been instituted by the Bailey boys. but I do not remember just how long thereafter. In this conversation. Mr Johnson said to me among other things that he had made an advancement on this lumber in question. and that there <sup>would be</sup> more than enough of the same to pay his advancement and our claim also. The claims designated as our claims. means the claims of the Bailey boys. The plaintiff in this suite, My impression is that he said that he had measured the lumber and knew how much there was. but I cannot recollect whether or not he stated the number of feet

X 24

Did he say he had measured the lumber. or that he had estimated the amount of lumber in said lot or lots.

Answer. My recollection is, that he mentioned a measurement and also an estimation but whether he said. he had



estimated it himself and some-  
other one had made a measurement  
or vice versa I cannot now say.

2 By way of refreshing your  
memory did not Mr Johnson  
tell you that he and Cornish had  
estimated said lumber to 170,000 feet

Ans I cannot now remember whether he  
mentioned the number of feet  
or not. Nor do I remember whether  
he said himself and Cornish or  
himself alone, or himself and some  
other person measured or estimated  
the lumber.

3. Had the injunction been granted in  
the Bailey case at the time you  
had said conversation or was it  
about the time the warrants were  
pending against the parties for trespass?

Ans The injunctions had been granted.

4 How came you and Johnson to be  
discussing the matter.

Ans. Mr Johnson came to me, and began  
the conversation but just what his  
object was I do not now remember.

5 What conversation have you with  
these cases?

Ans. I am of Counsel for the Plaintiffs.



witness claim  
1 day .50 cts

And further this deponent soith not:  
E. W. R. Ewing.

Virginia Lee County Court:

J. Henry C. Joslyn a Justice of the  
Peace for the County and State  
aforesaid. do hereby certify that the  
foregoing deposition of E. W. R. Ewing,  
<sup>was</sup> ~~was~~ duly taken. Sworn to and  
subscribed before me. at the time  
and place mentioned in the Caption  
of the same.

Given under my hand this 9<sup>th</sup>  
day of March 1895.

H. C. Joslyn J. P.

John & Bennett Bailey

vs.

James Carmichael et al

The deposition

of E. W. R. Ewing

Received from H. C. Joslyn  
the Justice before whom  
taken and filed this  
the 9<sup>th</sup> of March 1895.  
W. B. Murray Clk

J. P. Fee .75 cts



To Mess. A. Johnson and Jas. Carmichael:-

You are hereby notified that on the 16th day of January, 1895,  
in the office of E.M. Spears, in the town of Rogersville, and State of  
Tennessee, between the hours of 7.A.M. and 8.P.M. of that day, I shall pro-  
ceed to take the depositions of E.M. Spears and others, to be read as evidence  
in our behalf, in two certain suits in equity, (which were at the last term of  
our Circuit Court consolidated) now depending in the Circuit Court of Lee  
County, Virginia, wherein we are plaintiffs and you are defendants; and if  
from any cause the taking of the said depositions be not commenced, or if  
commenced, be not completed on that day, the taking thereof will be adjourned  
from day to day and from time to time and from place to place, between  
the same hours until the same are completed.

Your Obedient servant

John & Bennett Bailey, per

*Purvisington Mess. J. G.*



Virginia, Lee County, to-wit:-

I, A.G. Hyatt, a notary public in and for the County and State  
aforesaid do hereby certify that E.W. Pennington personally appeared  
before me in my County aforesaid and made oath that he on the 7th day  
of January, 1895 delivered to A. Johnson a copy of the within notice  
Given under my hand this the 12th day of Jan., 1895

*A.G. Hyatt* N.P.

*John & Bimmett  
Bailey  
vs. } notice to take  
depositions  
Geo. Lemmish & al*



Tennessee-

The depositions of James Carmichael taken before me, T. A. Bowen, a Notary Public, in and for the County ~~XXXXXXXXXXXXXXXXXXXX~~ of Hawkins, and State of Tennessee, pursuant to the notice hereto annexed at the Office of E. M. Spears in the town of Rogersville, and State of Tennessee on the 16th. day of Jan'y. 1895, between hours of 7 A. M. and 8 P. M. of that day, to be read as evidence in behalf of John and Bennett Bailey, in two certain consolidated Chancery causes now pending in the Circuit Court of Lee Co., Va. wherein the said John and Bennett Bailey are plaintiffs and said James Carmichael and A. Johnson are defendants therein.

Present E. W. Pennington Att'y for plaintiffs, James Carmichael for himself, and  
for said A. Johnson.

Question # I

Give your name, age and residence, *TC*

Answer.

My name is James Carmichael, my age is 37 years, I now reside in Hawkins Co., Tenn. I left Hawkins Co., Tenn. in the spring of 1891 and moved to Lee Co., Va. where I resided until about the middle of August 1894, at which time I moved back to Hawkins Co., Tennessee. Bringing with me all of my effects except house-hold and kitchen furniture, and logs, timber and lumber and an old saw mill. In the depositions heretofore given today I forgot to mention that I left the saw mill. At the time I left Lee Co., Va. I was indebted to said plaintiffs in the sums of money which they mention in their bills, which sums I owed to said plaintiffs for logging at what was known as the Cooney ~~XX~~ sets. The timber logged by said plaintiffs was to stand good for their bills for logging the same. This agreement was a verbal one; but my best recollection is, that said A. Johnson knew of this agreement, before he advanced me anything on the said timber and lumber on the Cooney sets. On these two sets, he advanced me some Four or Five Hundred Dollars, in the way of notes, which notes were discounted at the Pennington Gap Bank, and their proceeds paid mostly to the parties from whom I purchased the timber. During the Spring and Summer of 1894 I ran an account in the store of N. L. Johnson, the wife of said A. Johnson, I gave orders to my work hands to her, which she paid in goods out of her store, and I also got goods from her for my own and families use, all of which was charged to my account, on her books in the store. When I left Lee Co., Va. I left there, in the Crab Orchard country, about 200 M. ft. of lumber at the two Cooney sets, about 30 M. ft. at the Jasper Kelly set, about 50 M. ft. at the Rhoda Smith set, about 60 M. ft. below the said Smith set, at S. N. Parsons, and some 60 M. ft. at Dave Calton's. Most all of this lumber was sawed and on stick, and what was not sawed and on stick was yarded. All which lumber and timber, as I am informed, said Johnson or his wife has taken possession of and appropriated to their own use. If they have so possessed themselves of said timber and logs and lumber it was more than sufficient to pay them, or either of them any sum of money that I owed either of them. I did not give said Johnson, or any other person any authority to take possession of any of the said lumber, logs or timber. I think there was at least 300 M. ft. of lumber sawed and on stick, worth about \$ 11.00 per M. ft. where it stood, and the logs left there were worth about \$ 5.00 or \$ 6.00 per. M. ft. I think there was something about like 100 M. ft. of logs. Said A. Johnson has no interest whatever in the said lumber and logs, except such as he might have acquired by virtue of the contract entered into between he and I, dated Feby. 17th. 1894. In making up my estimate as to what I shall owe Mrs. N. L. Johnson, I ~~have~~ have not included therein the amount I may be due her by virtue of a certain deed of trust, executed about Dec. 1893, on a certain saw mill.



# 2.

Said A. Johnson advanced me no money or anything on any of said lumber except on said Cooney sets.

When I left, I had not paid the stumpage bills for the lumber at the Smith, Kelly and Parsons sets. I think I had paid some of the timber bill on the Calton set. And further this deponent sayeth not.

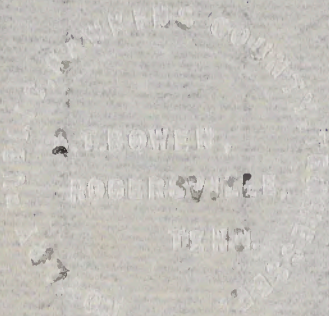
James Carmichael

Tennessee :-

County of Hawkins;-to wit :-

I, F. A. Bowen, a Notary Public, in and for the County and State afore said, do hereby certify that the fore going deposition of James Carmichael, was duly taken, sworn to and subscribed to before me at the time and place and for the purposes in the Caption mentioned. Given under my hand and Official Seal., this the 16th. day of Jan'y. 1895.

F. A. Bowen, N.P.



*clerk of Circuit Court*  
*James Aiken*  
*for*



Bennett Bailey et al  
vs Depositions

Jamies Leaurick et al

Received by ~~James~~  
in good & sufficient  
and filed Jan 18<sup>th</sup>  
1898

A B Munnay  
Clerk

H. P. Lee \$1.00  
Paid

A. B. Munnay  
H. P.

Testimony :-

County of Hawkins; to wit :-

Bill on the Callon set

And further this deponent averseth not.

Smith, Kelly and Parsons sets. I think I had paid some of the timber

When I left, I had not paid the stumpage bills for the timber at the

except on said Cooney sets.

Said A. Johnson averseth he no money or anything on any of said timber



611

The depositions of A. Johnson *James Myers, Wm D Zion, R. L. Owen, G. A. Wattenbarger*  
taken pursuant to notice, at the Office of Duncan and Hyatt in  
the town of Jonesville, on the 1st day of March 1895, before  
*County of Lee State Virginia*  
*Public for the* to be read as  
evidence in behalf of the defendants in a chancery cause now  
pending in the circuit Court of Lee County, in which Jon Baile  
ley and Bennett Bailey are the Complainants and James Carmicha  
el and others are defendants.

Present R.L. Pennington ~~and J.W. Orr~~ attorneys for the complain  
ant and Duncan and Hyatt Attorneys for the defendant A. Johnson

A. Johnson a witness of lawful age being first duly sworn depo  
ses and says:-

Ques. 1 Please state your residence and occupation?

Ans. I reside at Pennington Gap Lee County Va. Merchant and lumber  
dealer.

Ques. 2 Did you have a contract with James Carmichael, in the year  
1894, for the purchase from him of lumber, if so was said con-  
tract in writing, if so give the date of said contract and file  
said contract, or a copy of it with your said deposition?

Ans. I did have a contract with said Carmichael for the purchase  
from him of a large amount of lumber, said contract was in writ-  
ting and is dated the 17th day of February 1894, I have not  
the original in my possession, but file herewith a certified  
copy of said contract, marked "AB".

This question and the answer thereto are excepted to so  
far as it calls for anything that is stated in the contract,  
because the writing is the best evidence of what it contains.

R.L. Pennington for plffs.

Ques. 3. If you made any advancements to Mr. Carmichael under said con-  
tract, please state the amount thereof as nearly as you can,  
and in doing so give the amount of lumber upon which you  
made advancements, the amount of said advancements on each  
set separately.



Ans.

On sets one and two I settled with Carmical before he left the State. The lumber on these two sets had been delivered on the R.R. and ~~x~~ had been received by me.

I had advanced on set three before this suit was brought \$1600.00. Upon this set Mr. Carmical and myself estimated the lumber to be 170,000 ft. I have received out of said set 156,608 feet. Part of this lumber had been hauled, but had not been received, at the time this suit was brought; the remainder had not been hauled to the R.R. at that time. I had hauled 142,910 feet thereof, and paid \$2.75 per M for said hauling, the amount so paid by me for said hauling amounting to \$392.97. I also paid to P.C. Thompson for timber on this set \$79.71; various orders to Carmical after this estimate was made amounting to \$293.64. The total amount paid by me on this yard was \$2366.32 everything included. The total value of the lumber received from this set is \$1893.89 at the Railroad station, at Pennington Gap. This lumber was sawed at two different sets at Cooney's chapel or near there, known while being sawed as sets three and five, but both sets treated together by Mr. Carmical and myself as set ~~M~~ No. 3, and this is the lumber the removal of which was enjoined by the complainants, John & Bennett Bailey.

Carmical sold No. 4. to E.M. Spears. I made some advancements to ~~Mr.~~ Carmical on this set, but he let Spears have it and I did not get any of the lumber manufactured at said set. I advanced Mr. Carmical between \$95.00 and \$100.00 on said set 4.

On sets 6. 8. & 9. we ran the accounts all together, as they were ~~xx~~ small yards. I advanced to Carmical on these three sets \$1206.99. I afterwards paid for hauling for 138,000 ~~feet~~ feet of this lumber at \$4.00 per M amounting in all to \$552.00 making a total amount paid on these yards of \$1758.99. I received from these yards 138,001 feet of lumber at our contract price amounting to \$1604.62. It will thus be seen that I paid and advanced for Carmical on these three sets \$154.37 more than the value of the lumber received from them. ~~Set 6. was~~



These sets were located in the Craborchard, one located on the Rhoda Smith land, one near S.N.Parsons' and the other I do not know on whose land it was located.

Set 7. was located in the Pocket country, on the head ~~xxxx~~ of Straight Creek, and so was set 13. On this set I advanced \$319.64 to Carmical, and received from this set \$67.83 worth of lumber, leaving still unpaid on this yard \$251.81. E.M. Spears got all of this yard except the \$67.83 worth above spoken of, and what was levied on by Carmical's creditors.

On set 13. I had advanced \$214.97 when this suit was brought and never received any lumber at all. E.M. Spears got the lumber from this set. *except what was levied on by Carmical's creditors*

On set 10. I paid \$387.19 in all, and received in lumber \$333.63, leaving a balance due me on this yard of \$53.56.

On set. 11. I paid \$34.50, and have received ~~\$5x~~ \$12.00 worth of lumber, leaving due me on this yard, \$22.50. The ~~xxxx~~ logs at this set were sold by the parties who owned the timber to Mr. Watenbarger before they were sawed, to pay for the timber and logging.

On set 12. I paid and advanced \$31.70, and have received nothing.

The foregoing are all the sets on which I advanced any thing to Carmical, and are all on which I had any thing to do with him, under our contract. The total amount due me from Carmichael, under the contract between him and myself, including the amount, for which I have sued Spears, and which he claims as I understand that he ought not to pay, is \$1020. 71.

The foregoing question and the answer thereto are objected to, because immaterial and irrelevant to the issue these cases.

R.L. Pennington for Pltffs.

Ques. 4

Did you know of any lien upon the lumber in set 3 or 5 held or claimed by the Plaintiffs John and Bennett Bailey or either one of them at the time you made the advancements mentioned by you above on said sets?

Objected to because illegal irrelevant and immaterial.

R.L. Pennington for Pltffs.

Ans.

No Sir.



(41)

Ques. 5 Where was said lumber, and in whose possession was it when you made said advancements?

Ans. It was on the yards where it was sawed near Cooney's chapel at the time I made said advancements, said lumber was then in the possession of James Carmichael. At the time Carmichael and myself made the estimate on which said advancement was made Mr. John Bailey was present. He made no objections heard by me.

Ques. 6 Who was in the possession of the lumber at the Rhoda Smith set and at the set on the lands of Jasper Kelly, attached on in this case, at the time you made the advancements on said lumber on or at said sets?

Ans. Mr Carmichael was in possession of said lumber.

Ques. Have you received enough lumber from said two sets to reimburse you for the advancements made by you on said sets, and for hauling said lumber, if not how much is still due you on said two sets individually?

Ans The number of these sets was 8 and 9 as I understand the numbering, I kept the accounts of 6,8,and 9 together, and as above stated I paid out on the three sets \$154.37 more than I received, I can safely say that I did not receive as much lumber from these two sets as I had paid for.

Ques. 8 In your statement of the amount of lumber received from these two yards do you include the lumber that was attached on in these suits?

Ans. I do.

Ques. 9 Had you paid for the same before said attachments were served?

Ans. I had , and was hauling the lumber at the time.

Cross examination.

Ques.1 What three yards were first sawed? and put on stick?

Ans, One two and three, four was being sawed at the same time three was, by another mill

Ques. 2 How many thousand feet were there in sets 1,2,& 3?

Ans. When said lumber was put on stick at yard 1 it was estimated by Mr. Carmichael and myself at 60000 feet, yard 2 was estimated at 117000 feet, yard 3 was estimated at 170000 feet, by ac-



51  
Ques. 3 When these sets were delivered and actually measured how much ones and two , commons and culls were there in each set?

Ans. ~~XXXXXXXXXXXX~~ Sets one and two were delivered and settled for while Mr. Carmichael was here Mr. Carmichael had a man present who kept tally for him, which tally was compared with mine, and the amount of ~~XXXXXXXXXX~~ of the yard as a total was entered to his credit, I can not therefore tell the amount of either <sup>grade</sup> ~~kind~~ of lumber contained in this set. In yard 3 there were two car loads measured before Carmichael left in the same way as sets 1 & 2 and I do not know from memory the amount of the different grades of lumber contained in said two car loads, out of the residue of set 3 I got ~~XXXXXXXXXX~~ 24530 one and twos, 58720 feet of Commons and 35352 feet culls and 5006 feet of mill culls.

Ques 4 Have you no paper in your possession that will show the exact amount of 1 & 2 's commons and culls which you received on these three sets?

Ans I think I have at home.

Ques. Then I will insist on your making a full answer to question 4 and I will ask you to obtain the paper as soon as you can and answer the question.

Ans. I will get said paper if I can find it and file it as a part of my answer marked "AC"

Ques.5. ~~XXXXXXXXXX~~ How much did the two car loads mentioned in your answer to question above amount to in dollars and cents?

Answer. \$227.25.

Ques.6. ~~HowXXXXXbesidexxtwoXXXXXX~~  
~~XXXXXXthree?XXXXXXandXXXXXX~~  
~~XXXXXX~~ Where did you receive this lumber?

Answer. I hauled the lumber from Cooney's, measured and graded it at the Railroad station.

Ques.7. ~~Waxx~~ Did Mr. Carmical sell you any other lumber than that which was to be delivered to you under the contract which you file with your deposition, which was to be delivered to you at Pennnington Gap Va.

Answer.



(61) 1  
Answer. No Sir.

Ques.7. Then why did you take possession of the lumber which Carmical had left at set three, haul the same to the Railroad, possess yourself of it and use it as your own?

Answer. Because I had advanced Mr.Carmical about \$1600.00 on this yard, and he had failed to ~~to~~ deliver the lumber <sup>to the Railroad</sup> according to our agreement, having left the State. I had the lumber hauled to the Railroad, inspected and measured in order to get my money.

Ques.8. Did you take any legal steps to subject this lumber to your claim against Mr.Carmical?

Objected to because no legal steps were necessary under the contract made the 17th day of Feby.1894 when said lumber was sawed was on stick, and the advance of \$9.00 per thousand made upon it, it became the preoperty of Mr.Johnson, and no legal steps, if by the word legal steps is meant a law suit, were necessary. The answer to said question whatever it may be is irrelevant and immaterial.

Duncan & Hyatt, for Johnson.

The Bailet's had inhibited the moving of the lumber, and I made an agreement with them to remove the lumber. Said agreement so made is filed with this suit.

Ques.9. Your counsel having objected to the foregoing question, and claimed that the property was to become your own after the advancement of \$9.00 per thousand, will you take the said ~~contract~~ contract and point out any clause under which you are to have the said lumber as your own when the advancement was made? and mark that clause "XY".

This question is objected to because the contract shows for itself, and the legal sonstruction of it is for the Court.

Duncan & Hyatt, for Johnson.

Answer. I claim the lumber by virtue of the contract.

Ques.10. When was the lumber to become your own?

Objected to because the contract will show, and is the best evidence.

Duncan & Hyatt, for Johnson.

Qu The lumber was to be delivered at Pennington Gap, I was



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paying what the lumber was worth at the yard, and I was to have a lien on the lumber for the amount that I paid. The contract does not say when it was to become my own.

Ques. 11. Then did you claim this lumber under the lien which you claim to have on the lumber by virtue of a certain clause in said agreement, or otherwise?

Answer. I claim the lumber by virtue of our contract.

Ques. 12. Then did you claim the lumber under the lien which you claim to have on the lumber by virtue of a certain clause in said ~~contract~~ agreement, or other wise?

Objected to because witness has already answered the question fully above.

Duncan & Hyatt, for Johnson.

Answer. I claim it by virtue of the contract where it says that ~~I was~~ ~~was the first~~ he sold me 500,000 to 800,000 feet to be the first lumber manufactured by him after the contract was made, and I have complied with it ~~by virtue of~~.

Ques. 13. Then you do not claim said lumber under this clause of your contract: "all amounts either money or goods to operate as a ~~li~~ lien upon the lumber upon which the advancements are made"?

Answer. I do.

Ques. 14. Then why did you not institute legal proceedings, <sup>to enforce the lien which</sup> which you claim to have had against this lumber?

Answer. Objected to because immaterial, irrelevant.

Duncan & Hyatt, for Johnson.

Because I did not think it was necessary.

Ques. 15. Was the ~~lumber~~ lumber in the Rhoda Smith and Jasper Kelly, or the sets on these lands, ever delivered to you at Pennington Gap?

Answer. It was.

Answer. By whom?

Answer. I had teams to haul it. Carmical had left the state.

Ques. 17. Then Mr. Carmical did not deliver the lumber to you at Pennington Gap under the contract a copy of which you file with your deposition?

*in that particular*

x Answer. No. Mr. Carmical failed to fulfil his part of the contract.

Ques. 18. Then why did you take possession of the lumber in the Crab-orchard when the contract was that he should deliver the lumber to you at Pennington Gap, where you were to receive the same,



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and settle therefor?

Answer. Because I had paid Mr. Carmical \$8.00 to \$9.00 per thousand feet on said lumber and Carmical had left the state, and I wanted to get my money out of it.

Ques. 19. Then did you claim that you had a lien for the amount which you advanced on said lumber?

Answer. I did.

Ques. 20. Then why did you not institute proceedings to enforce your lien against said lumber instead of taking the said lumber ~~x~~ into your possession and acting as a Court of Justice between you and him?

Answer. Because I did not think it was necessary.

Ques. 21. How much did you advance to Mr. Carmical upon these two sets?

Answer. Sets 6, 8, & 9 was small yards and considered by us as one yard. I advanced on these three sets \$1206.99.

Ques. 21. ~~How much did you advance to Mr. Carmical upon these two sets?~~ Considering set 3. in your answer in chief you say you paid \$2.75 per thousand for hauling this lumber, why did this hauling?

Answer. W.D. Zion for one, M.L. Slemp, J.M. Amdis and propably others. I think Lanningham hauled some.

Ques. 22. Did you pay them all the same price per thousand.

Answer. I paid some \$3.00 and some \$2.50.

Ques. 23. What was the total amount of all the advancements made on ~~the~~ the lumber which Carmical left in the County when he left the state?

Answer. Up to Aug. 16th 1894 I had advanced \$3130.59. This advancement was made on sets 3, 4, 5, 6, 7, 8, 9, & 13.

Ques. 24. In what was these advancements made, goods or money. If both how much of each?

Answer. They <sup>made</sup> partly in money and partly in goods. I ran account with Mr. Watenbarger, who was sawing for Carmical, and also with the loggers, Robbins, several of them. When I settled with Carmical I would charge Carmical with the amounts he owed them for work, and give them credit for the same, on their accounts. To get the exact amount of money advanced I would have to have their account and also Carmical's and run over all of them. I can however approximate the amount of money



9 1  
paid. ~~xxxxxxxthehighhandedxxxxx~~ I paid Carmical himself about \$700.00 in cash, and I paid various sums to other parties for him, in cash.

Ques.25. For how much did you sell the lumber which was left by Carmical in this county?

Obj. Objected to because immaterial and irrelevant to any issue in the case. And because it is an inpertinent attempt to pry into the private business of a man when no beneficial results can thereby be attained for the Plffs.

Duncan & Hyatt for Deft. Johnson

Ans. I sold the lumber at \$7.00 per thousand for culls, \$13.50 ~~o~~ for common, \$21.00 for ones and twoes, that is for one inch stock. I got a dollar more per thousand for thicker stock. There was about 8 or 10% that ran thicker than 1 inch. In payment for this lumber I took 90 day and 4 months paper, which I had to have discounted to use at an average of 10%, per annum.

Ques.26. How much ones and twoes, commons and culls, and how much mill culls did you receive out of the Rhoda Smith ~~xxxxx~~ and Jasper Kelly sets, or sets 6,8.& 9., if you received any.

Answer. The Rhoda Smith ~~xxxxxxxxxxxxxx~~ and Jasper Kelly sets were 8 & 9. and as I have said before in our account 6,8,& 9 were treated as one set. Sets ~~xxx~~ 6,8, & 9 contained 23,778, of ones and twoes, 58,992 feet of commons, 52,673 feet of culls, and 588 feet of Mill culls, making in all 136,031. I had added it up before and made it 138, 001 feet, but find from a more careful addition that it ought to be 136,o31 feet.

Ques.27. Did you give any notice of the sale of the Carmical lumber either by written or printed notices? by posting or otherwise?

Answer. I did not.

Ques.28. Did you sell it at public auction?

Answer. I did not.

Ques.28. Who became the purchaser of it?

Answer. M.B.Farrin.

Ques.29. Did you have the lumber in your own possession when he left ~~h~~ the state?

Answer. The lumber was in Carmical's possession at that time.



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Ques. 30. For how much did you sell the mill culls?

Answer. I sold them at \$4.00 per thousand F.O.B. Pennington Gap, subject to the same discounts spoken of above.

Re-direct examination.

Ques. 1. You are asked in your cross-examination, if you took any legal means of enforcing your lien on the lumber left by Carmichael on which you had made advances, now is it not a fact that a great deal of said lumber has been attached on in various cases, in which you have filed petitions, and that the most or at least quite a large amount of said lumber was removed by you after you had given bonds in said cases?

Ans. Yes, sir.

Ques. 2. You state in answer to questions heretofore propounded to you that some of the payments made by you towards said lumber, was after Carmical left here. Now please state to whom, and on what account said payments were made by you, and the amount thereof as nearly as you can tell? I mean on sets ~~XXXXX~~ 3, 6,

Ans. 8, & 9.

Ans. As heretofore stated I paid on set 3. to P.C. Thompson for the timber out of which a part of said lumber was made \$79.71. This payment was made after Mr. Carmical left here. I had paid for timber to A.K. DeBusk & Cooney and Bill Woodward, which timber was sawed into lumber at set three the sum of \$637.00. This payment was made shortly before Mr. Carmical left. In other words, I advanced notes for this sum to Mr. Carmical which he discounted and used for that purpose. On sets 6, 8 & 9, I paid for all the timber out of which the lumber of said sets was made to C.A. Robbins \$10.00, to A.K. DeBusk & Cooney \$437.58 I also paid to the following persons with whom Carmical had settled before he left, the following sums for labor done for him at said sets, to wit. A.D. Robbins, \$65.00; J.A. Robbins, \$62.91; H.H. Kelly, \$10.00, I also paid in the same way on set 3 the the following small sums, to James Lanningham, \$6.76 to C. S. Lanningham \$7.50.

Ques. You have stated that you sold said lumber for the prices named, was this sale on board the cars and if you answer yes, th



then state at whose expense it was put on board the cars, and how much it cost?

Ans.

It was sold to be delivered on board the cars, and was so delivered, it cost twenty five cents per thousand to put it on the cars, and in addition to this it cost the labor of a man to look after the lumber as delivered from the wagons, and the expense of a man to keep tally as the lumber was being inspected, this added another 25 cents per thousand.

And further this deponent saith not.

A. Johnson



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James P. Myers another witness of lawful age being first duly sworn deposes and says.

Ques I Were you acquainted with James Carmichael, if so how long did you know him?

Ans. I was acquainted with him, I knew him all the time he was at the Gap, which was some two or three years.

Ques. 2 Please state if you ever heard him say anything about the claim of John and Bennett Bailey against, that is whether they or either one of them had a lien upon his lumber or any of it for their claim, state all he said about it if he said anything?

Ans. A short time before Mr. Carmichael left here, I was hauling lumber for Mr Carmichael, the Baileys were taking steps to stop the hauling, and in conversation about said action of the said Baileys I told Mr. Carmichael that they claimed that the lumber was to stand good for the sum due them until it was paid, and Mr. Carmichael then told me that the said Baileys had no lien or liens for their claim.

The above question and answer are objected to because the declarations of Carmichael cannot affect the interest of the Plaintiff and are therefore immaterial.

R.L. Pennington for Pltffs.

Cross examination.

Queas. 1.- Did Baileys claim to you that they did have a lien on the lumber which you have mentioned in your examination in chief?

Ans. They told me that the lumber was to stand good for itself until they got their pay.

Wit claim  
1 day - 50<sup>cts</sup>

And further this deponent saith  
not.

James P. Myers



13  
Another witness, W.D. Zion, being called and duly sworn, deposes as follows:

QUES. 1.- Were you acquainted with James Carmichael, if so how long have you known him?

Ans. From two to three year I have been acquainted with him.

Ques. 2.- Please state if you had any conversation with James Carmichael about the claim of John and Bennett Bayley if so, please state when it was what he said he owed them and whether or no they had a lien on any of said lumber for the amount of their claim, state all that he said about it.

Ans. I did have a conversation with him. it was about the time that the Bayley boys were taking steps to stop Carmichael from hauling lumber from set 3, that is set <sup>S</sup>at or near Cooney's chappel, my waggon was hauling for said Carmichael, and when I heard what the Bayley boys were doing, I went to Mr. Carmichael and asked him what about it, he told me to send my team back, that they had no lien on said lumber, and that they were claiming that he owed them 300.00 or 400.00 dollars, when he owed them as his books showed some where in \$60.00  
This question and the answer thereto is objected to because the declarations of Carmichael can not effect the rights of the plaintiffs in this case, and is therefore irrelevant, immaterial and impertinent to the issue in these causes.

With Claim  
1 Day - 50<sup>cts</sup>

And further this deponent saith not.

W. D. Zion

G.A. Wattenbarger, another witness of lawful age, being duly sworn, deposes and says:

Ques. 1. for Johnson.--- Please state if you were the sawyer who sawed set no. 3., that is the sets at and near Cooney's chapel? If so, how much of said sets did you saw, and for whom were you sawing?

Answer. I was the sawer. I sawed all of set 3. except about 40,000 feet which had been sawed when I got there. I was employed by Mr. Carmichael to do said sawing.

Ques. 2. To whom were the logs delivered when they were hauled in by



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the loggers, that is the logs, that were hauled after you went there as a sawyer?

Answer. They were delivered to Mr. Carmical, that is, he received and measured a part of them, I as his agent received and measured the balance.

Ques. 3. Now at the time said logs were delivered did John or Bennett Bailey retain any possession of said logs or of the lumber manufactured therefrom?

Answer. If they did I never heard of it.

Ques. 4. Did they tell you, or did you ever hear of any lien retained by them on said logs or lumber, until some time after said set was sawed and the amount thereof estimated by Johnson and Carmical?

Answer. I never did hear of any lien.

Ques. 5. Please state how much if any thing was paid by Mr. Johnson to you by the direction and at the request of James Carmical on sets 6, 8 & 9.

Answer. \$386.50.

And further this witness saith not.

With claims

1 day - 100

Got Wattenbarger

Robert Owens another witness of lawful age being duly sworn deposes as follows:-

QUES. 1 please state if you were the sawyer who sawed set 3., that is, the sets at and near Cooney's chapel? If so, how much of said sets did you saw, and for whom were you sawing?

Answer. I sawed about 40,000 feet at said sets. I was sawing for James Carmical, was employed by him.

Ques. 2. Who did the hauling of the logs to said sets; to whom were the logs delivered, when ~~xxxxxx~~ you were sawing?

Answer. John Bailey and Ben Bailey and Parsons. Ben Bailey hauled what was called the Company logs; John Bailey was hauling on the Debusk & Cooney timber. The ~~xxxx~~ logs were delivered to James Carmical. Either Carmical himself, or myself, as his agent, measured and received the logs so hauled, while I was doing the sawing. I did all the sawing at said sets until Wattenbarger and Carmical swapped mills, and then I suppose



Mr. Wattenbarger did the rest of the sawing.

Ques. 4. Were you present and did you hear the contract made by which James Carmical hired John Bailey to haul said logs? If so what was said contract and when was it made?

Answer. If I was not present when any particular contract was made as to set ~~2~~ 3., but I was present when they made a contract in regard to set 2. That contract was made at Carmical's house on Sunday, but I do not remember what day, but think it was in the latter part of February or the first of March 1894. John Bailey agreed to haul the logs to the yard at \$2.25 per thousand and which Carmical agreed to pay him.

Ques. 5. Was anything said about a lien being retained by Bailey on said logs or lumber until his haul bill was paid ~~xxxxxxxxxxxx~~?

Answer. There was not.

Ques. 6. Now please state if you heard them say anything in regard to the hauling done by John Bailey on set 3.

Answer. When we finished set 2. and ~~xxxx~~ I was setting up the Mill at set three, Carmical was measuring the first logs that had been hauled in at set three. Bennett had logged the logs that had already been hauled in, and seemed like he was not satisfied with the measurements, and said he was going to quit unless he could get a good measurement or enough for hauling the timber. John Bailey had come up about that time, and Carmical asked him what he would take to log the timber in, and John Bailey remarked that he could not tell him until he went around and looked at the timber. Carmical and John Bailey went to the woods and were gone some three or four hours, and came back to the yard, talking about the logging still. Carmical asked Bailey how about it, and John Bailey replied that he would go on with the same contract they had about set 2. Carmical told him all right, to go on with the logging.

Ques. 7. Please state if, before the time Carmical left here, and while you were sawing said set ~~three~~ 3., you ever at any time heard of the Baileys having a lien on said lumber or logs until their haul bill was paid, or that the lumber was to theirs until their logging bill was paid?



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I never heard of any lien whatever, until after the Baileys brought suit.

Ques.8. Did you ever hear James Carmical have any talk about whether the Baileys had a lien on said lumber about the time they brought their suit, or about how much he owed them? If so state what he said and when it was.

Ans. About the time the Bailey ~~Boys~~ boys stopped the teams from removing the lumber to the R.R.Station, I think about the latter part of July 1894, Carmical said they need not be kicking that he did not owe them but very little, and got his book and ran it up and said he owed them about \$67.00, and that they had no lien or any writings <sup>to show</sup> that they had any right to stop ~~the~~ the teams from hauling.

Ques.9. Who paid you for the sawing you did at set 3, and how?

Answer. Mr.Carmical gave me orders to N.L.Johnson's store for what I took up while I was working there.

Cross Examination.

QUES1,- Can You state positively withot any reervation, that on the Sunday which you speak of in your panswer in chief above, whe Bayleys and Carmichael made the contract concerning the hauling of the lumBer, that nothing was said about the Balies having a lien on the lumber for their work; or is the said answer above only as you remember it?

Ans. It was as I remember it.

QUES.2. Was there any other persons present when the said contract was made swith Bayley concerning the hauling of the lumber,if so who were they?

Ans. The only persons that I remember was Ned Parsons.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~QUEST3.~~ And further this deponent saith not.

Ques. for Johnson. Please state if you know what Carmical <sup>paid</sup> teams for hauling lumber from sets.3. to the R.R.Station at Pennington.  
~~for~~ Objevted to because irrelevant, impaterial and impertinent to the issues in the case.

R.L.Pennington, for pliifs.



Jno + Bennett Bailey

vs } Depositions  
of  
A. Johnson

A. Johnson

Rec'd from Notary  
before whom taken  
& filed, this 2<sup>d</sup> day  
of March 1895.

ATB Munsey  
Clerk

With fees - 3<sup>00</sup>

Notary fees -

11<sup>1</sup>/<sub>2</sub> hrs at 75 = 8<sup>25</sup>

Notary fee Pd by  
A. Johnson.



(17.)

Ans. Carmical told me to tell every man I saw that had a ~~team~~ team that he ~~was~~ <sup>would</sup> paying \$3.00 a thousand for hauling to the R. Station at Pennington.

Cross-examination.

Ques. 1. Do you know of your own knowledge what Mr. Carmical paid team for hauling?

Answer. I only know what he told me to tell them.

And further this witness saith not.

Wit Claims

2 Days - 1<sup>00</sup>

R. G. Owen

Virginia, Lee County, to wit:  
I, D. C. Sewell, a notary Public for the county aforesaid in the state of Virginia, do certify that the foregoing depositions of A. Johnson, Wm D. Zion, James Myers, R. G. Owen & G. A. Wattenbarger were duly taken, subscribed & sworn to before me, ~~at the place &~~ on the 1<sup>st</sup> & 2<sup>nd</sup> days of March 1895, having had a witness as examination when the hour for adjournment on the 1<sup>st</sup> March 1895 was argued, adjourning order being waived to continue on the 2<sup>d</sup> of March 1895, <sup>at the place &</sup> for the purpose in the caption mentioned. Given under my hand, this 2<sup>d</sup> day of March 1895.

D. C. Sewell N. P.



James Carmichael & A. Johnson:

TAKE NOTICE. That <sup>20</sup> I, on the ~~29th~~ day of October, 1894, at the Law Office of E. M. Pennington, in the town of Pennington Gap, Lee County, Virginia, will proceed to take the deposition of John Bailey, Bennett Bailey and others which, when taken, I intended to be read as evidence on my behalf in a certain suit in Chancery now pending in the Circuit Court of Lee County, State of Virginia, in which Bennett Bailey is plaintiff and James Carmichael & A. Johnson are defendants.

And if from any cause the same be not commenced, or if commenced, be not concluded on that day, the taking thereof will be adjourned from time to time, and from place to place, until completed.

OCT. 25, 1894.  
Pennington Bros  
- and -  
Or, Blankenship & Ewing } attys.

Very Respectfully,

Bennett Bailey,  
By Counsel.



Bennett Bailey  
Notice to  
take  
vs. { Depositions.

James Carmichael, et al

Executed at the  
By Delivering  
a copy of this  
Notice to

A. Johnson  
M R Kirk & S  
for C. E. Harkney  
S L C



The depositions of Bennett Bailey — and others, taken before me, A.G. Hyatt, a notary public for the County of Lee, and State of Virginia, pursuant to notice hereto annexed, at the law office of E.W. Pennington, in the town of Pennington Gap, Lee County, Virginia, on the 30th. day of October, 1894, to be read as evidence in behalf of \_\_\_\_\_

Bennett Bailey in a certain suit in equity now depending in the circuit Court of Lee County, Virginia, wherein Jas. Carmichael and A. Johnson are defendants, and the said Bennett Bailey is Plaintiff.

Present Pennington Bros., & \_\_\_\_\_ attys. for plaintiff;

and L.T. Hyatt atty. for A. Johnson.

~~Give your name, age, residence and occupation.~~

~~ANS. My name is~~

Bennett Bayley, a witness of lawful age, after being duly sworn deposes as follows:-

Ques. Give your name, age residence and occupation.

Ans. My name is Bennett Bailey; I am now 24 years old; I reside in the Crab Orchard & Country, in Lee County; and my principal occupation is farming and logging.

Ques. State how much, if any thing Jas. Carmichael is indebted to you, what for & when due.

Ans. Jas. Carmichael is indebted to me in the sum of \$184.00, if not more. At the time I brought my suit, I was informed by Carmichael that \$184.00 was the amount due me, but recently I am told that it is about \$27.50 more than \$184.00. He owed me this said sum of money for hauling logs for him in the Crab Orchard Country. Carmichael gave me two statements, one showed that he owed me for one lot of logging for 41337 feet and the other for 17775 feet at the price of \$2.75 per thousand feet <sup>for both lots</sup>. On this logging he paid me orders at Johnson's store \$15.00. He also owed me a note of thirty dollars for logging and \$6.00 for moving his saw-mill from Stapleton yard to the Zion yard. This money became due

by the terms



by the terms of the contract which I had with Carmichael when the logs I hauled was sawed and on Stick. Carmichael sawed these logs and put them on stick- ~~this was done~~ about the last of April or the first of May, 1894.

Ques. State what your contract was with reference to securing you, for your logging, or such money as he might become indebted to you, if you had any contract.

Ans. Carmichael got me to make the contract for him to buy the trees, and he agreed to let me log ~~them~~, that is to haul ~~them~~ in to the saw-mill from the woods; and our contract was that if he could not, or did not pay me for the hauling or logging, it was to be my timber, and I was to have the right to sell and dispose of the same to pay me my hauling bill and also for the moving of the said mill. This contract was not put in writing because the said Carmichael at the time he made the said agreement with me said it was not ~~un~~necessary; that witnesses called to hear the terms of the contract was sufficient, and was as good as if in writing. Accordingly witnesses were called to witness the terms of the contract.

Ques. State if you, after you had hauled said logs to the saw-mill delivered the same or the lumber made therefrom to the said Carmichael, or did you still hold them under your contract?

Ans. I never delivered the said logs or the lumber made from them to the said Carmichael. He moved a few hundred feet of it, but he did so without my knowledge or consent. When I found out he was moving the same without having paid me my logging bill, then I sued out this injunction. I contracted for Carmichael for all the trees that made the said 41337 feet, the other he bought himself from the Crab Orchard Coal and Iron Co. I am now told that these logs that came out of the timber which was bought from the said Company amounted to ~~27000~~ <sup>about</sup> 27000 feet, instead of 17775 feet. At the time I made this contract with said Carmichael I was informed by him that he had a contract with one A. Johnson to sell the same. I think the contract made by me and Carmichael was <sup>made</sup> about the first days of March, 1894.



Cross examined by Deft. Johnson's atty.

Ques. Did or not the \$30.00 note constitute a part of the \$184.00, and for what was it given?

Ans. It is a part of the said \$184.00, and was given for a part of the logging of the said timber. The six dollars for moving the said saw-mill is also a part of the \$184.00.

Ques. By the terms of your contract with Carmichael were you to also to have a lien for the \$30.00 and the \$6.00?

Ans. I was, on the lumber or logs hauled by me.

Ques. In the event you were not paid your hauling bill by the said Carmichael how much of the said logs or lumber was to be yours.

Ans. All that I hauled was to be mine.

Ques. Who are the witnesses that was called to witness yours and Carmichael's contract?

Ans. Jahu Holmes, Stephen Parsons, Silas Stapleton, and William Carroll were present.

Who informed you that the lumber or logs that came off the lands of the Crab Orchard Coal & Iron Co. was 2 about 27000 feet instead of 17000?

Ans. Robert Owens, the man that sawed and measured it and partly sawed it.

Ques. Did you put in all the logs that came off the said Company's land.

Ans. I did and had it done.

And farther this deponent saith not.

*Bennett Bailey*

B.F. Parsons another witness of lawful age after being duly sworn deposes as follows:-

Ques- What is your age, residence and occupation?

Ans. I am 49 years old; I live in the Crab Orchard Country, in Lee Co. and I am a farmer.

Ques. Do you know where Jas. Carmichael is, if so state whether, after he left here, if A. Johnson paid you any sum of money, if so for what did he pay you?

Witness  
Claims  
100y 50/



And farther this deponent saith not.

87K 28 X 8 X X X X X X

Ans. Sonn after Carmichael left here I let said Johnson have the ssid due-bill, and at the time Johnson paid me \$1.00 on it, and gave me his due-bill for \$9/00 to be paid when the Carmichael lumber was shipped- the lumber that I had sawed. About two ot three weeks ago I brought the due bill in to him and He shaved it \$1.00, and paid it. He told me at the time he paid the due bill off that the lumber had not been shipped, they werr about done hauling it to the R.R., if they were not done. At the time he took in Carmichael's due-bill, and gave me his, he told me he would pay my claim, that it was good if Bailey's were good.

with not. his.  
B. F. Parsons  
marks

Ques. Give your age residence, and occupation.

Ans. I am about sixty years old, I live in the Crab Orchard Country in Lee County, and I am a farmer.

Ques. State whether you are acquainted with Jas. Carmichael and Ben-

25



Ques. Were you present when said Bailey made a contract with said Gar  
 michael to haul in some logs? If so, what was the terms of the contrac

Cross examined.

Ans. A part of it off the Crab Orchard Coal & Iron Co. , a part off of Holmes, and Andrew Bailey's lands.

0808XXasXXkoxXhaXXhaXXofXXheXXlbarXXkikXXkaXXsaXXayXXnaXX

claims that there was a particular timber

Ans. I do not know myself n how that is.

Ans. He did. He hauled some to the Cooney yard, and perhaps to others.

Re examined

Ans. Some of it came off the said Company's lands and some of it from Wm. Woodward's lands. I do not know where it all came from.

And farther this deponent saith not

ot  
his  
Silas Stapleton  
mark

Witness  
Claims  
100y 50f



6.

Jahu Holmes another witness of lawful age after being duly sworn deposes as follows:

Ques. Give your age residence and occupation.

Ans. I am 33 years old, live in the Crab Orchard Country, Lee County, and I am a farmer.

Ques. Were you present when Jaz. Carmichael and Bennet Bayley made a contract concerning the hauling of some of logs? If so, what was the terms of the contract?

Ans. I was present when said parties made a contract concerning the hauling of some logs. I heard Carmichael tell Bailey that the timber that he should haul in should stand good for the haul bill; that he would not move a single stick of it until it was paid for; and if Carmichael should not pay the said haul bill, than Bailey was to take the timber or the lumber made therefor and dispose of the same to pay his debt.

Ques. State if at any time after the said contract was made, you heard Carmichael say any thing about him being indeted to the said Bailey, if so, state what he said.

Ans. After the said contract was made and after the said Bailey had finished the said logging, I met Carmichael in the road, and I heard him in a conversation with the said Bailey say that he owed him and that he intrnded to pay him. But I do not rember of hearing him say how much he owed Bailey. This was not as much as a month before Carmichael left here. It was my understanding that the \$30.00 note and the \$6.00 for moving the mill was to paid out of the lumber, and that the lumber was to stand good for ~~xx~~ both sums. The Cooney set was to stand good for these sums, that is the Woodward and Company timber.

Cross Examined.

Did not said bailey have more than one contract to haul logs for the said carnical?

I do not know that he did. He was to haul logs all summer, and the lumber was to stand good for the said hauling.



Ques. When was the contract you heard, made?

Ans. It was along about the 8<sup>th</sup> of January 1894.

Ques. Did not the said Bailey haul logs to several sets?

Ans. After i heard the contract? he only hauled logs to the Stapleton and the Cooney sets. The Cooney set was the last one.

Ques. Do you not know that said Bailey received part if not entire payment for hauling to the Stapleton set?

Ans. i know that he did not receive full payment. i<sup>was</sup> present at the settlement which they made just after the mill was moved to the Cooney set. ~~SEBBISSON~~ Carmical was then due the said Bailey a balance of \$36.00 for hauling, and \$6.00 for removing the mill.

Said Carmical executed his due bill to said Bailey for the \$30.00 The rest of the \$184.00 is for hauling logs to the Cooney set.

Ques. Where did the logs come from which the said Bailey hauled to the Cooney set.?

Ans. They came off of Wm. Woodward's and the C.O.C. & I. Co.' land. I do not know that all the logs came off of these two tracts.

Ques. in the event that Carmical did not pay said Bailey for said hauling? and the said Bailey should have to sell said timber for said hauling, then who was to pay for the timber?

Ans. The contract was that the timber was to pay for itself.

Re examined.

Ques. Are there not more than one Cooney set, if so which one did Bennet log?

Ans. There are two Cooney sets, both on the same land. Bennet logged only a part of one of them. Bennet logged on the first one that was hauled in.

And farther this deponent saith not.

*his*  
John Halmes  
*mark*

Stephen Parsons another witness of lawful age deposes as follows:-

Ques. Give your name, age residence and occupation.

Ans. My name is Stephen Parsons, I am 22 years old, I reside in the Orchard Country, and I farm.

*Witness  
Claims  
1000*



8.

Ques. Were you present at the time a contract was made between Jas Carmichael and Bennet Bailey concerning the hauling of some logs, if so state the terms of the same.

Ans. I was present when said parties made a contract to have some logging done. By the terms of that contract the logs that Bailey should haul were to stand good for and be the logs and property of the said Bailey until his log bill was paid. This contract had reference to the logs that should come into the Cooney set, no. one. Carmichael was to pay this bill so soon as the same ~~wx~~ same was sawed and on stick. And if he could not or did not pay when so on stick then Bailey was to make it out of the lumber that the logs that Bailey should haul would make.

Cross examined by Johnson.

Ques. Did Bailey <sup>haul</sup> all the logs at that set?

Ans. I think not.

Ques. What logs were to be the logs and property of the said Bailey if the event the said Carmichael should not pay for the logging of the same?

Ans. The logs that Bailey should haul, that is the Company and Woodward logs.

Ques. Was that contract put in writing?

Ans. I don't think it was at that time, and I don't believe it ever was.

Ques. Who told you the contract?

Ans. Carmichael.

Ques. Who else was present but you?

Ans. I believe Jahu Holmes, William Carr, J. Robert Owens was there on the yard, but I do not know whether he was present at the time the contract was made.

Ques. Who called you as a witness to the contract?

Ans. If I was called I do not remember it.

Ques. Did you hear either Bennet Bailey or Carmichael call any one as a witness?

Ans. If I did I do not remember it.

And farther this deponent saith not.

Witness  
Claimed  
1 day 50¢

His  
Stephens Parsons  
mark



9.

William Carroll another witness of lawful age after being duly sworn deposes as follows:-

Were you Present when any contract was made between Jas Carmichael and Bennett Bailey, concerning the hauling of any logs, if so, what was the terms of the contract, and to what logs did it relate?

Ans. I was present when said parties made a contract concerning the hauling of some logs, at the set known as the Silas Stapleton set. Carmichael told the said Bailey to go and haul the logs, and if he did not pay him for the hauling so soon as the same was sawed and put on stick, then for him (Bailey) to take the lumber made from the logs that he should haul, and sell it and make his money.

Cross examined by deft Johnson.

Ques. Who else was present and heard this contract,

Ans. A.J. Bailey, Silas Stapleton, Jahu Holmes.

Ques. Who called you to witness the contract?

Ans. No one.

Ques. Did you hear either Bailey or Carmichael call any one to witness this contract?

Ans. I did not.

And father this deponent saith not.

*his*  
*William Carroll*  
*mark*

*Witness*  
*Claring*  
*100y 50y*

The witness A J. Bailey after being duly sworn deposes as follows:

Give your name, age residence and occupation.

Ans. My name is A.J. Bailey, Age 69, reside in the Crab Orchard Country in Lee County, Va. and I am a farmer.

Ques. Were you present when any contract was made between Jas. Carmichael and Bennet Bailey, concerning the hauling of some logs, if so, state the nature and terms the contract and what logs did it have reference to?

Ans. I was present when the said parties made a contract concerning the hauling of some logs



hauling of some logs. He bought some timber from me. I heard Carmichael tell Bennet Bailey that he wanted him to log the timber; that he would pay him every dollar for the logging when it was ~~saled~~ and put on stick. He was to give him \$2°75 per thousand feet for the logging. He father told Bennet that the lumber should be his property until he had paid him for hauling the same. This contract had refference to the timber that went into the ~~Silas~~ Stapleton set. About the time they began to haul from the Cooney set No. one, and a short time beforr Carmichael left here, I met c Carmichael in the road, and in a conversation between him and Bailey, I heard him say that he had a contract with A. Johnson to take the lumber. Bailey told him not to haul any more from there unless he paid him, and he said Johnson had gone after the money to pay off his claim. He said he could give a bond and haul on but he would get the money and pay off, by Saturday thereafter. In this conversation Bailey asked him if the lumber was not to stay there until he was paid in full, and Carmichael said *it* was.

Cross Examined.

Ques. Where did the timber go that was bought from you?

Ans. To the Stapleton set.

Ques. How were you to get your pay for the timber?

Ans. The lumber made from the timber sold by me was not to be moved until I was paid, but it was moved. MR. Johnson paid me the most of it.

Ques. By the terms of the sale of of said timber to the said Carmichael was not the said timber to remain yours until paid for?

This question and any answe<sup>t</sup> thereto is objected to because irrelevant

Pennington for Compl

Ans. It was . and was not to be taken away from sta<sup>ck</sup>. until paid for

Ques. Was not your contract of sale f made before Bailey's contract for hauling?

Ans. Both Contracts were made at the same time.

Ques. When and wher<sup>e</sup> was this contract made.

Ans. At my house in February, 1894.



Ques. Who was present when this contract was made.

Ans. Jahu Holmes, William Carroll, Silas Stapleton, and perhaps more, but I don't remember who it was.

Ques. Were you called by either of the said parties to witness the said contract.

Ans. I do not know that I was. I heard no one called. He is

Re examined by plaintiff.

Ques. Was not it suggested that this contract had better gone in writing by Bailey, If so what was said about it?

Ans. Bailey suggested that this contract between them should be put in writing but Carmichael said there was no use of it, as there was witnesses. None called but three, four or five of us present. And farther this deponent saith not.

*W. Bailey*

Witness  
Clearing  
1 day 50¢

The farther taking of these depositions are postponed until tomorrow morning 8 o'clock October, 31st., 1894 at the same place as mentioned in the said caption. This Oct. 31st. 1894.

*W. Pennington, N.B.*

These depositions resumed on this the 31st. day of October, 1894, at the law office of E.W. Pennington in the town of Pennington Gap, Va., at 8:30 A.M. of that day. Given under my hand this the 31st. day of 1894.

*W. Pennington, N.B.*

another witness of lawful age after being duly sworn deposes as follows:

Ques- Give your name age, residence and occupation.

Ans. My name is



The defendant A. Johnson being desirous of asking the witness Bennet Bailey other w questions which he forgot when the witness was on the stand, the defendant doth hereby farther Cross examine the said Bailey Ques- Did you not haul other logs to other sets than the ones on which the said Carmichael owes you? If so when and where?

Ans. I have hauled other sets for Carmichael than the ones on which he now owes me. Since the First day of January, 1894, I have hauled to two sets only. The first one I hauled to since that day was the Stapleton set. The logs I hauled to the Stapleton set came off of the A.J. Bailey the Crab Orchard Coal & Iron Com's. , and Jahu Holmes lands. There wer three trees hauled to this set, I do not whose lands they came off of. Carmichael simply told me to haul them. The next one I hauled to was t what is known as the Cooney set no. one. The trees that I hauled into this set came off the lands of the Crab Orchard Coal & Iron Co's. and William Woodward.

Ques. Did Carmical pay you for any of the hauling you did since the 1st of Jany, 1894. If so how much.

Ans. HE did. HE paid me all but \$30.00 for hauling the Stapleton set. I can not tell exactly how much. . He paid me \$135.50 for hauling t the Stapleton set and v gave me his note for \$30.00. The \$30.00 was t to be paid out of the Cooney set, and also the \$6.00 for moving the mill to the Zion set.

Ques. Then according to your contract, the Cooney set No.1. was to st ~~stand good to~~ you for what Carmical is yet due you?

Ans. Yes, sir.

Ques. Did you haul all of the Cooney set No.1.°

ANS. NO, I did not.

Ques. Was the whole set to stand good to you, or only the logs that you hauled?

Ans. Only the logs that I hauled.

Ques. Whose mill sawed the logs that you hauled to the Cooney set No.1

Ans. Carmical was in possession, claiming it. Before the set was finished, Watenbarger took possession, and claimed that he had swapped with



with Carmical.

Ques. Please state when and where and in whose presence Carmical made the contract with you to haul the logs to the Cooney set No.1.

Ans. It was made at the Stapleton set... As well as I can remember it was made on or about the ~~10th day of March 1894~~ 10th. day of March ~~1894~~ 1894.. Stephen Parsons, Jahu Holmes and Silas Stapleton were present when this contract was closed. Others around the mill, but I do not remember who they were.

Re-examined by plaintiffs atty.

Ques. Who else hauled to the Stapleton set and to the Cooney set No.1?

Ans. I hauled all the timber and had it done that went to the Stapleton set. John Bailey, and Stephen Parsons hauled to the other set, or Cooney set No.1. with me.

Ques. When you and Carmichael settled on the Stapleton set, explain how and for what you did settle?

Ans. After I had hauled in the Stapleton set Carmichael settled. For the logging and for moving his mill he owed me \$179.80. He gave me a check for \$100.00 which was paid by the bank; afterwards, he gave me another check for \$79.80; this last check was payable in 60 days after date, and after I had had it for a while I noticed that it was not signed; so I showed it to him, and he signed it, I went to the Bank and presented this last check at the Bank but it was not paid. So I went and hunted him up, and he paid me \$50.00 on the check and then gave me his note for 30.00; he counted in 20 cents for interest in this note.

Ques. Did you ever have any conversation with the defendant Johnson about the amount which Carmichael owed you, and the terms or nature of your contract with Carmichael, if so state when and what was said.

Ans. On the fourth day of July, 1894 I took an order for \$12.0 and for \$3.00 to Johnson signed by said Carmichael, and asked him to pay it:

Deft. Johnson was not in the store when I went in, his wife was in the store; afterwards deft. Johnson came in and said that the order was good ~~and it was paid in the store.~~ and it was paid in the store. After I had traded out my order deft. Johnson and I got to talking about the matter and he said Carmichael would get the money ~~in~~ a few days on that set



the Cooney set in a few days and pay me. I told Jonson that I was logging for Carmichael several times.

Re crossexamined

Who were those orders given to?

Ans. It was given to the Store. I don't know whose store it is. N.L. Johnson's name is on the house. I don't know whose it was addressed to I have heard lately it was his wife's store. The same name that is now on it has been on it for a year or more. I thought N.L. Johnson was the deft. Johnson until recently.

And farther this deponent saith not.

Bennett Bailey

Witness  
Claims  
1 day 50¢

~~xxxxxxxxxxxx~~ T.A. Bailey another witness of lawful age, after being duly sworn deposes as follows:

Ques. Give your name age, residence and occupation.

Ans. My name is T.A. Bailey, I am 27 years old, reside in the Crab Orchard country, Lee Co. and am a farmer.

State whether you ever had a conversation with Jas. Carmichael concerning the contract he had with the plaintiff in this case, if so state what he, Carmichael said about it?

Ans. Carmichael told me that the timber that Bennet should haul in, was to stand responsible for the haul bills, and he said that they would all be paid before any timber was removed from the yards. This conversation was just a few days before he left here; I think he left in about two or three days after this. In this same conversation he farther said that the ~~amount that he owed~~ the amount of money claimed in plaintiffs suit was due him; that only aimed to haul a few loads of the lumber; that he did not think about the boys kicking about him moving the lumber. Some time before this, on the 4th. day of July, I was in Pennington Gap, Carmichael gave two orders to Bennett Bailey ~~xxxxxxx~~ one for \$12.00 and the other for \$3.00. I traded out one of these orders and Bennett the other. They were signed by Carmichael and addressed to



either Mr. or A. Johnson, I don't remember which. They were taken to the store of Johnson in Pennington Gap, and they were accepted and paid off. Deft. Johnson was not present when orders were presented, but his wife said she would pay all orders signed by Carmichael. Mr. Johnson paid me a part of the order that I had out of the Store; his wife also paid me a part of it; it all was paid out of the store. He paid me a \$12.00 order on the Calton set but he complained about it. The Calton order ~~x~~ was paid me just a few days before Carmichael went off. He paid me another \$12.00, which is the one before spoken of.

Cross examined.

Ques. How did you happen to have the conversation with Carmichael, of which you speak?

Ans. Bennet had quit hauling and I wanted to know what the contract ~~x~~ was so I called on him to know the terms. I was going to haul under the same contract that Bennet <sup>Bailey</sup> had, and came to see how I was to get my pay for hauling.

Ques. What set had you begun to haul to at the time you came to see Carmichael?

Ans. Calton set.

Ques. ~~Had~~ not a part of the Cooney lumber been hauled <sup>away</sup> when you had said conversation with Carmichael?

Ans. I do not know of my own knowledge, but I heard Carmichael say he thought he would haul a load or two, that he ~~he~~ did't think the boys would kick about it. I supposed from this <sup>that he</sup> had hauled some when we had our conversation.

Ques. What was Johnson's complaint about the Calton order?

Ans. He just said he did not want to advance much more <sup>money</sup> until there was some lumber delivered; he farther spoke how long it <sup>would</sup> be before he would get any thing out of it.

Ques. To what yard did he have reference when ~~he~~ he said what you say ~~the~~ did?

Ans. I do not know, he just said he did not want to advance much more <sup>money</sup> ~~lumber~~ on that lumber up there, I <sup>supposed</sup> at the time he had reference to it all in the mountains.



16.

Ques. Who hauled the c Calton set,

Ans. I did, and had it done.

Ques. Did you not see Carmichael give orders on the Calton set, that did not belong to that yard?

Ans. I did not.

~~Ques. Did you ever give~~

And farther this deponent saith not.

Witness  
Claims  
1 day 50¢

*J. A. Bailey*

Green Pennington another witness of lawful age deposes as follows:

Ques. How old are you?

Ans. I am 16 years old.

Ques. Did you or not hear a conversation between Carmichael and plaintiff about the money which plaintiff claimed Carmichael to owe him, if so state when and where it was, what was said?

Ans. I did hear them have a conversation about the money which plaintiff claimed that Carmichael owed him. This conversation was in this County on the North Fork of Powells river, and was some time last Sprn Spring. I dont recollect exactly when it was. I heard plaintiff ask Carmichael if the lumber was not to stay on the yard untill plaintiff got his money, and he said it was.

Ques. Do you where what is called Cooney set No. one?

Ans. I do.

Ques. Was the lumber or timber sawed at that set at the time you heard Carmichael and plaintiff talking?

Ans. It was.

~~Ques. Where~~ Ques. Where do you live?

Ans. In the Crab Orchard, some mile from the Cooney set No. one.

Ques. How did it happen you were present when you heard the conversation of which you speak?

Ans. I had started to Pennington Gap

Ques. Repeat the whole conversation, as you remember it.

Ans. Bennet asked Carmichael if that was the contract, that the lumber was to stay there until he got his money out of it, and he said it was. They were talking, but I did not pay much attention to what was said.



was to stay ther until he got his money out of it, and he said it was.

They were talking but i did not pay much attention to what was said.

Ques. Did you hear Carmichael say how much he owed plaintiff?

Ans. I did not.

AND farther this deponent saith not.

Witness  
Charles

2 days @ 7 100

*his P*  
*Green Pennington*

John Bailey another witness of lawful age deposes as follows:-

Ques. What is your age?

Ans. 27 years old.

Ques. Sate whether you ever heard Carmichael and the pliantiff in the case have a conversation about the money which the plaintiff claimed that he owed him, and about their contract, if so state when and where it was and what was said about it.

Ans. I did hear them have a conversation on the North Fork in Lee Co. This was along about when Carmicahel began to move the lumber away from the Cooney set No. one. Carmichael had sent some wagons to the Cooney lumber No. one to move it away, and I heard of it and went to see about it, and I saw the boys that were hauling and they said Carmichael had sent them there after lumber, I told them to not to haul it, that it belonged to me and plaintiff, that it was to stand good until our money was paid, that is our haul bill; and they asked me to let them haul that load out, but I told them I would not that it was not our cob contract, and then I went and saw plaintiff, and then he and I went ove to the lumber, and we saw the wagoners coming and we told them not to haul it, some of them said they were not going back without a load, and they went on to the yard to see if they loaded; they did load their wag ons and came on out. Then we went to see Jas. Carmichael to see what he said a bout it, and we met him at the place above spoken about, and we asked him what he meant by sending his wagoners to haul the lumber off before we got our money, and he said Johnson had then gone some where to get the money, and he <sup>Carmichael</sup> would pay us on Saturday following. He then asked us to let him haul on, but we told him it was not our contract, and told him not haul any more. And then we asked him if it was ~~not his contract, that he no longer was to stand good for our haul bill.~~



not our contract that the lumber was to stand there untill our haul-bill was paid, and he said it was the contract. This ended this conversation. If any thing else was said I do not remember it.

On the fourth of July, 1894, in the town of Pennington Gap, Va. I had another conversation with Carmichael at his house, in which conversation, ~~xxxxxx~~<sup>he</sup> he was looking over the books between plaintiff and himself and they agreed on ~~it~~<sup>the amount due Bennett</sup> unless for a certain amount of logs that had been hauled by Bennett off of the Company's lands, which Robt Owens had measured a part. I do not remember what the amount was that they settled on. I was not noticing much. Jim Asked us if we wanted any orders to the store, and he gave us one or two. We took these orders to the Store on which N.L. Johnson's ~~xxxxxx~~ name was. And in this store my order was paid, and possibly Bennet's.

Cross-examined.

Ques. ~~ask~~ Did you take any legal means to stop the wagoners from removing the lumber, if so what?

Ans. We did. We saw an attorney and he told us that if they kept on moving the lumber to take them up, and we did sue out before a justice warrants and had some fellows arrested. After this we sued out our injunction suits which are now being prepared for trial.

Ques. Were you not indicted for stopping the teams.

This question is objected to because irrelevant and immaterial to any thing in this case in issue. Pennington Bros.

Ans. I do not know, but I heard we were.

And farther this deponent saith not.

Witness  
claims  
1 day out

John Bailey

W.K. Hopkins, another witness of lawful age after being duly sworn deposes as follows:-

Wht is your age?

Ans. 26 years old.

Did you know Jas. ~~McC~~<sup>McC</sup> Carmichael, If so state your acquaintance?

Ans. I knew Carmichael, and had known him for some ~~x~~ two years.



Ques. Where is he now and how long has he been there?

Ans. From general report, and from a letter received from him, he is in Tenn. near Rogersville. He went there about three months ago.

Ques. Has he any property here in this State, if so what is it and where is it?

Ans. If he has any here I do not know it. Just before he left here I was working for him some. I measured and tallied lumber, and kept his books. So if he should have any property here I would be likely to know it. When he left here my impression is that he got away with some horses and a wagon or two.

Ques. Did not the books of the said Carmichael show that he was indebted to Bennett Bailey.

Ans. I do not remember, but my impression is that his books showed that he was due the Bailey boys something. But I do not which one. I do not know where Carmichael's books are, but I think they are at Mr. Johnson's because A. Johnson after Jim left here came to <sup>my</sup> house and got them.

Ques. State whether you were present at a settlement made between A. Johnson and Jas. Carmichael, if so when was it and ~~what~~ was the result of this settlement?

Ans. I came in a time or two while they were settling, and after they had gotten through, Carmichael seemed to dissatisfied about something. He said "I have nothing left, the books only show that Johnson only owes me about \$24.00" He directly afterwards in looking over the books found two mistakes, which run the amount which Johnson owed him to \$40.00 or \$50.00. They were settling by Mr. Johnson's books. This settlement was made about a month before he left here for Tenn. I did not understand whether this settlement was a general or partial one. My impression is now that it was a general settlement. I do not know whether I had any impression about the matter at the time. The

The witnesses statement as to his impression at this time is objected to, because immaterial and impertinent.

L. T. Hyatt for Johnson.

Cross examined by deft Johnson.

Ques. What lumber had you tallied and measured before the settlement



you speak of was made?

Ans. I ~~do not~~ remember any particular yard.

Ques. What ~~is~~ it your occupation?

Ans. I am Mayor of Pennington Gap Va., and a new attorney - of about three weeks standing.

And farther this deponent saith not.

Witness  
Claims  
1 day 50¢

*W. H. Hopkins*

A. J. Jackson another witness of lawful age, after being duly sworn deposes as follows:

Qued. What is your age?

Ans. I am 49

Ques. Do know when Jas. Carmichael left here or about when?

Ans. I do not know exactly, but perhaps in the latter part of August.

Ques. After he had left, did you not have a conversation with A. Johnson about his leaving, and in that conversation did not Johnson state, that Carmichael's leaving did not hurt him, or words to that effect?

Ans. State all he said.

Ans. Johnson and I were going to King's to look out a mill site. We were riding along near Dr. Burk's, and I asked him, if Mr. Carmichael had hurt him much by leaving. and he said "No he has not hurt me any. unless there was a saw-mill note that should come in that I would have to pay. I do not know what saw-mill note he had reference to.

This was just a few days after Carmichael left, perhaps 4 or 5 days.

And farther this deponent saith not.

Witness  
Claims  
1 day 50¢

*A. J. Jackson*

This evidence of this witness is objected to because irrelevant and immaterial.

L. T. Hyatt for Johnson.



Virginia,

County of Lee, to-wit:-

I, A.G. Hyatt, a notary public in and for the County and State afore-  
said, do hereby certify that the foregoing depositions of A.J. Bailey

John Bailey, Bennett Bailey, A.J. Jackson, W.K. Hopkins, *B. J. Parsons*  
*Silas Stapleton, John Holmes, Stephen Carson,*  
*William Corroell, J. A. Bailey, Green Pennington*

were duly taken, sworn to, and subscribed before me, at the time and pla-  
ce, and for the purpose in the caption mentioned.

Given under my hand this the 31st. day of October, 1894.

*A. G. Hyatt* N.O.



Bennett Bailey Deft  
vs Depositions  
Jas Carmichael & A Johnson  
Oct. 31/94

Received by mail in good  
condition & filed November  
the 5<sup>th</sup> 1894  
A B Munsey Clerk

Fee for Notary  
10 hrs @ 75 \$7.50  
12 Witnesses - 7.00



James Carmichael & A. Johnson:

TAKE NOTICE. That I, on the <sup>30</sup>~~29~~th day of

October, 1894, at the Court Office of  
E. W. Pennington, in the Town of  
Pennington Gap, Lee County, Virginia,  
will proceed to take the deposition of Bennett Bailey, John  
Bailey and others

which, when taken, I intended to be read as evidence on my behalf in a certain suit in Chancery  
now pending in the Circuit Court of Lee County, State of Virginia, in which  
John Bailey is plaintiff and  
James Carmichael & A. Johnson are defendants.

And if from any cause the same be not commenced, or if commenced, be not concluded on that day, the  
taking thereof will be adjourned from time to time, and from place to place, until completed.

Oct - 25, 1894.

Pennington Bros  
— and —  
Or, Blankenship & Ewing } attys.

Very Respectfully,

John Bailey  
By Counsel.



John Bailey

vs.

Notice to take  
Depositors.

James Cornicheal, et al

Executed at the  
By delivering  
a copy of this Notice  
to A. Johnson

M R Kirk Ds  
for C. E. J. L. L. L.

S L L



The depositions of T.A. Bailey John Bailey and others taken taken before me A.G. Hyatt, a notary public for the County of Lee and Sa of Virginia, pursuant to notice hereto annexed, at the law office of E.W. Pennington, in the town of Pennington Gap, Lee County, Virginia, on the 30th. day of October, 1894, to be ~~read~~ as evidence in behalf of John Bailey in a certain suit in equity now depending the Circuit Court of Lee County wherein Jas. Carmichael and A. Johnson are defendants and the said John Bailey is plaintiff.

Present Pennington Bros. Attys for plaintiff, and  
L.F. Hyatt for the deft. Johnson.

The witness T.A. Bailey after being duly sworn deposes as follows:  
Give your name age residence and occupation.

My name is T.A. Bailey, age 27, and am a farmer.

The farther taking of these depositions are postponed until tomorrow morning 8 o'clock, October, 31st. day, 1894. to be continued at the same place as set out in the said notice, and in the foregoing caption. This the 30 day of Oct. 1894:

*A.G. Hyatt N.P.*

The taking of these depositions are resumed pursuant to adjournment, on the 31st. day of October, 1894, at the law office of E.W. Pennington in Lee County, C Va. Given under my hand this the 31st. day of Oct. 1894

*A.G. Hyatt N.P.*

John Bailey a witness of lawful age, after being duly sworn deposes as follows:-

Ques. What is your age?

Ans. I am 27 years old.

Ques. State whether Jas. Carmichael is indebted to you in any sum of money, if so how much and when did it become due?

Ans. Jas. Carmichael is indebted to me in the sum of \$182.06 for logging for him, which became due when the logs I hauled was sawed and on stick, which was on or about the \_\_\_\_\_ day of June, 1894. I gave two orders one to G.L. Pennington for \$25.25, and the other to A.K. DeBusk for \$8.20. These orders were accepted by Carmichael and in our settlement



2  
~~18~~

were deducted from the amount he owed me. These orders I am told are not paid. To add them to the \$182.06 he would owe me \$215.51, in the event I had to pay them.

Ques. For what did Carmichael owe you and what was yours and his contract ?

Ans. He owed me for hauling logs for him out of the woodsto the two Cooney sets, known as set No. one and two. My contract with him was that he was to pay me \$2.75 per thousand feet for the logs hauled in to set No. one, and \$2.50 per thousand fett for the logs that I hauled to set No. two. For this hauling he was to pay me when the logs that I hauled was sawed and on stick. And the logs and the lumber made from them was to be mine until I got my money for the haulinf of the same. He was not to move them until I did get my money. This contract was made at Carmichaels barn in the town of Pennington Gap, and about the 1st. to the 10 of February, 1894. E.P. Parsons was present when this contract was made. This contract was not put in writing because he said it was not necessary, as said Parsons was a witness to our contract. An Parsons was called to witness the terms of the contract and the same was told to him by Carmichael.

Ques. What lumber have you had enjoined from being moved?

Ans. The lumber at sets nos. One and two on the Cooney land.

Ques. Did you ever have any conversation with Carmichael after the time you made your said conytract, as to its terms, if so when and where and what was said and who was present?

Ans. Not until a few days before I brought my suit. I had a conversation with him in this County on the North Fork of Powell's river, in the presence of A.J. Bailey, Fletch Parsons, Bennet Bailey, and Jahu Holmes and this was along about the time that Carmichael began to move the lumber away from set No. one. Carmichael had sent some wagons to the Cooney set No. one to move it away, and I heard of it and went to see about it, and I saw the boys that were sent to haul, and they said that Carmichael had sent them there to haul it away. I then told them not to haul it, that it belonged to me and Bennett Bailey, that it was to stand good for haul bill was paid. And they asked me to let them take a load, *as stated to by A. Johnson in same interview & foreclosed suit*



but I would not agree to it as it was not our contract. And then I went and saw Bennett Bailey, and the he and I went over to the lumber, and we saw the wagoners coming and we told them not to load and haul the lumber, but some of them said they were going to take a load anyway, and they went on to the yard to see them load; they did load their wagons and came out. Then we went to see Jas. Carmichael to see what he said about it, and we met him at the place I heretofore referred to. And we asked him what he meant by sending his wagoners to haul the lumber off before we got our money, and he said Johnson had then gone somewhere to get some money and he Carmichael would pay us on Saturday following. He then asked to let him haul on, but we told him it was not our contract and for him not haul any more, then we asked him if it was not our contract until our hauling bill was paid, and he said it was the contract. Cross-examined by deft. Johnson.

Ques. From what lands did the timber you hauled come from?

Ans. Off the Cooney lands, or as it is also known as the Crab Orchard Coal & Iron Co's. lands.

Ques. After you made your contract at the barn before spoken of, did you not also log a set at a set called the Zion set?

Ans. I did, the most of it at the Zion set. I also hauled a few logs at the Rock lick set.

Ques. From who did Carmichael get the timber that you logged at the Cooney sets?

Ans. From Mat Cooney and A.K. DeBusk, so he told me. This also known as the C.C. & I. Co's. land, so called because Cooney had reserved so many trees when he sold the land to said land, and said Cooney sold the trees to said Debusk.

Ques. Did Carmichael ever pay to you any thing for the logging done by you, if so how much and for what logging?

Ans. He did. He paid me in full for the Zion set and Rock Lick set, and some in the store of Johnson on the Cooney sets, I do not remember the exact amount. Carmichael owes me nothing only on the said two Cooney sets. I hauled and had hauled all of the Cooney set no. two and a part of set No. one. No one else was present when we made our contract.



4.

tract but Parsons, Carmichael and myself.

Ques. Did you haul the Zion timber under the same contract as ~~under~~ you hauled the Cooney timber?

Ans. I did All the timber I hauled for him was under the same contract He was to give me work all the year. I would not come from Ky. until he promised to give me work all the yeat.

Ques. How many feet did you haul to the Zion yard.

Ans. I was told that I hauled about 94,000 feet. I was told that it was more than that but I do not know. I do not know how muck there was except what Carmichael told me.

Ques. How much did you haul to the two Cooney sets?

Ans. I do nor remember, now. I did know. Carmachel told me the amoun, and I srttled by his statement. And the settlement showed he owed me \$182.06.

And farther this deponent saith not.

GGGGG

*John Bailey*

The farther taking of the depositions of T.A. Bailey is resumed, the same having been begun on yesterday.

Ques. State whether youn ever had or heard any conversation with Jas. Carmichael concerning the contract he had with the plaintiff in this case, if so state what was said ?

Ans. I ~~did not~~ <sup>has</sup> a conversation <sup>Carmical</sup> with said ~~parties~~, and I heard him say he owed Bennet & John Bailey the amount they are now claiming, and that the lumber that was there, that is at the Cooney sets, stood good for their debts. He said he did not aim to haul it all away, that he only aimed to haul away a few loads, that he did'nt think they would kick about it. This is all I remeber to have heard them say.

Cross examined.

Ques. Where was this conversation had, and when?

Ans. On the R.R. in the town of Pennington Gap, and just two or three days before he left. There were others present but they were strangers to me. Did Carmichael mention the amounts that was due Baileys?



Ans. He did not tell me the amount he was due them.

And father this deponent saith not.

*C. H. Bailey*

E.P. Parson another witness of lawful age after being duly sworn deposes as follows:

Ques. Give your name, age, and occupation,

Ans. My name is E.P. Parsons, I am about 39 years old, and am a farmer.

Ques. Were you present when Jas. Carmichael and John Bailey made a contract for the hauling of logs, if so state the nature and terms of the same, and when and where was it made?

Ans. I was present when said parties made a contract at Carmichael's bar. This was about the ~~last of January 1884~~ 1st. to the 10. Feb. 1894.

Some time before the contract was made he sent word by me to John, who was then in Harlan V Co., (y., that he wanted him to haul for him, and that he would give him work all the year. I told John what Jim said, and John asked me to go with him and he would go and see Jim, and we did go and see him. Jim told him he wanted him to haul all the Spring and summer for him, and would pay when the logs he hauled was sawed and on stick; Well Bailey said we will go into writings, Jim said there was no use for that that he was a man who would do what he said, and that we will call a witness, and then he called me and told me over the contract; Bailey asked him who he was working for, and he said he was n,t working for any particular one, but that Mr. Johnson had offered him a little the best trade. By the terms of the contract they entered into, John was to haul first a few logs at the Rock Lick set, then at the Zion set, then no other place was mentioned that I remember. He was to furnish him hauling all the Spring and Summer. I ~~do not~~ ~~xxxxxxx~~ do not remember what he was to give per thousand for the hauling, I remember that he said he would do him a right.

Ques. State if you ever had any conversation A. Johnson about this affair.

Ans. I did. One time, before Carmichael left her he gave me an order to Johnson. I took it to Mr. Johnson, and I asked him to pay it, but he did not, He did not say he would not pay it. He agreed at last to give



me his due-bill and pay me when the lumber was shipped. I kept the due-bill was about all hauled from the Cooney setz No. one.

And farther this depobent saith not.

*his*  
E. P. Parsons  
mark

Witness  
Claims  
1 day 50¢

A. J. Bailey another witness of lawful age after being duly deposes as follows:

Give me your age?

Ans. I am 59 years old.

Ques. Did you hear a conversation between the said Carmichael and the said plaintiff, if so when and wher was it and what was said?

Ans. I did hear a conversation between the said Carmichael and the said plaintiff and Bennett Bailey. This was on the North Fork of Powell's river in Lee B County. We were coming to the Gap, John and Bennett Bailey, Jahu Holmes and Fletcher Parsons. The Bailey boys were wanting to see Carmichael, and were on their way to see him; they met him at the place aforesaid; named to him that they had started to see that they wanted some money. He told them that he could not pay them any then before Saturday, that Johnson was then after the money to pay and would be in the next night. Then John told him he must not haul any more, that it was the Contract to not move it until he was paid, Carmichael said that was the contract, but that he supposes it would not make any difference to be hauling some of it. This conversation was perhaps some time in some two or three weeks before he left. It might have been in August, 1894. It was after the forth of July.

And farther this deponent saith not.

*his*  
A. J. Bailey  
mark

Witness  
Claims  
1 day 50¢

Jahu Holmes another witness after being duly sworn deposes as follows:

Ques. Give your age?

Ans. 33 years old.

Ques. I have heard A. J. Baileys deposition read and I here concur in same and know that what is stated therein is true, and I here adopt the same as my deposition.

*his*  
Jahu Holmes  
mark

Witness  
Claims  
1 day 50¢



F.C.Parsons another witness of lawful age afther being duly aworn deposes as follows:

Ques. How old are you?

Ans. I am 37.

Ques. Have you heard A.J.Baileys deposition read, and can you adopt it as and for your own?

Ans. I have heard A.J.Baileys depodition read and can and can and do hereby adopt it as fot my own.

And farther thid deponent saith not.

*his*  
J. C. Parsons

W.K.Hopkins another witness of lawful age after being ~~sworn~~ duly sworn deposes as follows

Ques. What is your age?

Ans. W 26 years old.

Did you <sup>know</sup> Jas. Carmichael, if so state your acquaintanze?

Ans. I knew Carmichael, and had known him for some two years.

Ques. Where is he now, and how long has he been there?

Ans. From general report and from a letter received from <sup>him</sup> He is in Tennessee near Rogersville. He went there about 3 months ago.

Ques. Has he any property here in this State, if so what is it and where is it?

Ans. If he has any here I do not know it. Just before he left here I was working for him some, I measured and tallied lumber, and kept his books. So if he should have any property here I would be likely to know it. When he left here, my impression is that he got away with some horses and a wagon or two.

Ques. Did ~~it~~ not the books of said Carmichael show that he was indebte to John Bailey?

Ans. I do not remember, but my imprecision is thzt his books showed that he was due the Bailey boys something, but I do not know which one I do not know where Carmichaels books are, but I think they are at Mr. Johnsons, because he, A. Johnson. after Jim left here came to my house and got them.

*witness  
claim  
1 day 50*



8.

State whether you were ~~xx~~ present at a settlement made between A. Johnson and Jas. Carmichael, If so, when was it and what was the result of this settlement?

Ans. I came in a time ot two while they were settling, and after they had gotten thtough, Carmichael seemed ~~x~~ dissatisfied about something, "Sais I have got nothing left, the books only show that Johnson ~~only~~ owes me about \$24.00" He directly afterwards in looking over the books found two mistakes which run the amount which Johnson owed him to some \$40.00 or \$50.00. They were settling by Mr. Johnson's books. This settlement was made about a month beforr he left her e for Tenn. I ~~do~~ not understand whether this settlement was a general or a partial one. My impression is now that it was a general settlement. I do not k know whether I had any impression about the matter at the time. The witnesses statement as to his impression at this time is objected to, becuase immaterial and impertinent.

L. T. Hyatt for Johnson.

Cross examined by deft. Johnson.

Ques. What Lumber had you tallied and measured before the settlement you speak of was made?

Ans. I can't remember any particular yard.

What is your occupation?

Ans. I am Mayor Pennington Gap, Va. and a new Attotney- of about three weeks stading?

And farther t'his deponent saith not.

*W. C. Hopkins*

A. J. Jackson another witness of lawful age after being duly sworn deposes as follows:

Ques. What is your age?

Ans. I am 49.

Ques. Do you know when Jim Carmichael left here, or about when.

Ans. I do not know exactly, but in the latter part of August perhaps.

Ques. After he had left, did you or not have a conversation with A. Johnson about him leaving, and in thzt conversation did not Johnson state



that Carmichael's leaving did not hurt him any or words to that effect  
State all he said?

Ans. Johnson and I were going to King's to look out a mill site, ~~we were~~  
riding along near Dr. Burks, and I asked him, if Mr. Carmichael had hurt  
him much by leaving, he said "No he had not hurt him any, unless there  
was a saw-mill note that should come in that he would have to pay." I  
do not know what saw-mill note he had reference to.

This was just a few days after he Carmichael left, perhaps 4 or 5 days.

And farther this deponent saith not.

*L. T. Hyatt*

The evidence of this witness is objected to because irrelevant and im-  
material

L.T. Hyatt for Johnson.



Virginia,

County of Lee, to-wit:-

I, A.G. Hyatt, a notary public in and for the County and State afore-  
said, do hereby certify that the foregoing depositions of A.J. Bailey  
John Bailey, <sup>F.A.</sup> ~~Bennett~~ Bailey, A.J. Jackson, W.K. Hopkins, E.P. Parsons  
John Holmes and D.C. Parsons.

were duly taken, sworn to, and subscribed before me, at the time and pla-  
ce, and for the purpose in the caption mentioned.

Given under my hand this the 31st. day of October, 1894.

A.G. Hyatt N. Pub



John Bailey  
vs 3 Depositions  
Jas C. Michael & Johnson  
Octo 31 / 94

Received by mail in good  
Condition and filed November  
the 5th 1894  
A B Munsey Clerk

Fee for Notes  
5 hrs @ 75 \$3.75  
Witnesses 2.00



Virginia, Lee County, to-wit:-

This day Robert L. Cunningham Agent and Attorney for Bennet Bayley plaintiff in a certain ~~action~~ suit in Chancery ~~is~~ now pending in the Circuit Court for Lee County, Va. against ~~a~~ James Carmichael, and A. Johnston to recover from the said Carmichael, the sum of 184 dollars which became due on the 1st day of Aug 1894, personally appeared before me A.B. Muncy, clerk of the Circuit for Lee County, and made oath that, 1- He verily believes ~~in~~ the said claim of the said ~~Baily~~ is just; 2- that he believes the said Baily is entitled to, or ought to recover at the least in the said suit, a sum of money amounting to \$ 184.00 with interest thereon from the 1st day of Aug 1894. 3- That to the best of the affiant's belief the said James Carmichael, is not a resident of this state, and has estate and debts owing to him in the said County of Lee, in which the said Suit is pending and is sued with a defendant residing therein; 4.- That to the best of the affiant's belief the said Carmichael is removing, or intends to remove, and has removed his estate or the proceeds of the sale of his property or a material part of such estate and proceeds out of this state so that process of execution on a judgment when obtained in said cause will be unavailing. 5.- That to the best of Affiant's belief the said Carmichael is converting or is about to convert or has converted his property or some part thereof into money, securities or other evidences of debt, with the intent to hinder, delay and defraud his creditors; 6.- that to the best of Affiant's belief the said Carmichael has assigned or disposed of, or is about to assign or dispose of his estate or some part thereof, with intent to hinder, delay, and defraud his creditors. Given under my hand this the 24th day of September, 1894.

A.B. Muncy Clerk.



Bennett Baep, Coru

v.s } Affidavit

James Canickel-

Filed September the 24<sup>th</sup> 1894  
A.B. Munsey Clerk



Virginia, Lee County, to-wit:-

This day George W. Blount Agent and Attorney for John Bailey plaintiff in a certain ~~action~~ suit in Chancery ~~is~~ now pending in the Circuit Court for Lee County, Va/ against ~~x~~ James Carmichael, and A. Johnston to recover from the said Carmichael, the sum of 182.06 dollars which became due on the 1st day of Aug 1894, personally appeared before me A.B. Muncy, clerk of the Circuit for Lee County, and made oath that, 1- He verily believes ~~xx~~ the said claim of the said Bailey is just; 2- that he believes the said Bailey is entitled to, or ought to recover at the least in the ~~st~~ said suit, a sum of money amounting to \$ 182.06 with interest thereon from the 1st day of Aug 1894. 3 -. That to the best of the affiant's belief the said James Carmichael, is not a resident of this state, and has estate and debts owing to him in the said County of Lee, in which the said Suit is pending and is sued with a defendant residing therein; 4.- That to the best of the affiant's belief the said Carmichael is removing, or intends to remove, and has removed his estate or the proceeds of the sale of his property or a material part of such estate and proceeds out of this state so that process of execution on a judgement when obtained in said cause will be unavailing. 5.- That to the best of Affiant's belief the said Carmichael is converting or is about to convert, or has converted his property or some part thereof into money, securities or other evidences of debt, with the intent to hinder, delay, and defraud his creditors; 6.- that to the best of Affiant's belief the said Carmichael has assigned or disposed of or is about to assign or dispose of his estate or some part thereof, with intent to hinder, delay, and defraud his creditors. Given under my hand this the 24th day of September, 1894.

A. B. Muncy Clerk.



John Bayley -

v.s. } Affidavit -

James Cornickal

Filed September the 24<sup>th</sup> 1894  
A.B. Munsy Clerk



Agreement entered into this 17 Day  
February 1894 By<sup>and</sup> between James  
Carmichael Party of the first part  
and A Johnson Party of the second part  
both of Lee County Virginia:

Witnesseth that by Consideration of  
One Dollar in hand paid receipt  
of which is hereby acknowledged  
The first party sells to the second party  
not less than five hundred thousand  
and less than one million eight hun-  
dred thousand ft of poplar Lumber  
to be the first Lumber manufactured  
By said Carmichael <sup>and</sup> to be delivered  
during the year 1894 at side tract  
of Remington Gap <sup>and</sup> to be piled  
Convenient for Loading said Lumber  
to grade One & two, Common & cull  
to be cut out of Strickley first <sup>and</sup>  
second Class Logs at the price to be  
for One <sup>and</sup> two \$19.<sup>50</sup> for Common  
\$13.<sup>50</sup> <sup>and</sup> \$7.00 for cull to be cut to the  
order of the second party to be well stacked  
so as to have plenty of air in drying  
<sup>and</sup> hauling to be commenced to Rail  
road when sixty days old terms of  
Payment for the first three yards  
to be nine Dollars per thousand ft



when each yard on this <sup>and</sup> the mill  
moored already, <sup>and</sup> the rest of the yards  
eight Dollars per thousand feet where  
the hauling of the Lumber will  
not cost more than three Dollars  
per thousand feet. This first party  
is to give the second party all the  
trade arising from this Contract,  
<sup>and</sup> the amount of such bills to be  
Deducted from amount found to  
be due on each yard <sup>and</sup> the residue  
of the amt. or advance due to be  
paid one half in sixty day negotiable  
note the balance four months negotiable  
note, said Carmichael agrees to push  
the hauling of said Lumber to Rail  
road, The second party agrees to do his  
own sawing as personally superin-  
tended the same, <sup>and</sup> when the above  
advance is made to furnish a release  
from the parties from <sup>whom</sup> the lumber  
may be bought. When each yard is  
Delivered to railroad the same is  
to be received by the second party  
<sup>and</sup> settlement to be made in full  
therefor It is understood that  
if the second party is not prepared



to pay Cash on the above mentioned  
advance <sup>and</sup> executes his notes as above  
mentioned he is to pay one half the  
Discount of such notes. All amounts  
of either money or goods is to operate  
as a Lien upon the Lumber upon  
which the advances are made.  
It is further agreed that the  
above Lumber is to be cut 10-12-14  
<sup>and</sup> 16 ft Long <sup>and</sup> not more than ~~10~~  
10% of 10 ft length allowed the a-  
mount of Lumber to be advanced  
upon to be determined by the Log scale  
estimated of the Lumber at the op-  
tion of the second party. The first  
party is not bound to cut Dimen-  
sion Stock, but is free to cut the  
Logs to the Best advantages Lumber  
14 to 22 inclusive thicker cut  
before the signing of the Contract  
James Carmichael  
Witness A Johnson  
E. J. Owen  
H. H. Risler

Virginia Lee County to wit  
I A. S. Hyatt a Notary Public  
in <sup>and</sup> for the County in the State



aforesaid as hereby certify that A.  
Johnson & James Carmichael whose  
names are signed to the writing  
above bearing Date 17th Day of  
February 1894 have acknowledged  
the same before me in my  
County aforesaid. Given under  
my hand this 14th Day of March  
1894

A. G. Hyatt N.P.

Virginia Lee County to Wit:

In the Office of the Clerk of the  
said County the 14th Day of March 1894  
this Agreement was presented  
as together with the Certificate  
thereto annexed was admitted to  
record

Teste: S. V. F. Richmond Clerk  
A copy - Teste: S. V. F. Richmond Clerk



This agreement made and entered into this the 4th day of September 1894 by and between John Bailey and Bennett Bailey of the County of Lee Parties of the first part, and A. Johnson of the County and State aforesaid of the other part:

Witnesseth, that whereas the said John Bailey and Bennett Bailey have each filed their bills in chancery in the Circuit Court of Lee County against one James Carrickall, the object of which said bills was to collect a debt alleged to be due the said John Bailey for the sum of \$182.00, and a debt alleged to be due the said Bennett Bailey for the sum of one hundred and eighty-four dollars, in each of which suits an injunction has been granted, restraining and inhibiting the said Carrickall from removing the logs and lumber mentioned in each of said bills, and whereas A. Johnson claims to have purchased said logs and lumber before the institution of said suit, or the granting of said injunctions. And the said Johnson being desirous of removing shipping and selling said logs and lumber has

it of said two suits the sum of *four hundred & twenty five* dollars, to be applied to the settlement of the claims of the

complainant in each of said suits in the event they should establish the justness of their claims and that said claims constitute a lien upon said lumber and logs superior in dignity

and prior in point of time to his, the said Johnson's claim upon said lumber by reason of his purchase thereof, and upon the cashier of said bank certifying that the said A. Johnson has deposited said sum of *four hundred & twenty five* dollars aforesaid, then it is hereby agreed that said injunction

shall *rat so far as the claims of said Baileys go* affect the title of any purchaser from said Johnson of said logs and lumber, and the said John Bailey and Bennett

Bailey each for himself agrees that the said Johnson his agent and employees shall have the right to remove, ship and sell said lumber and logs free from any interference upon their

part. It is further agreed that this agreement is not to



interfere in any way or to in any manner prejudice the rights  
of the said John and Bennett Bailey or the said A. Johnson to  
assert and maintain each his several claim to and lien upon  
said logs and lumber. Witness the following signatures and  
seals this the day and date first above written.

John Bailey (Seal.)

Bennett Bailey (Seal.)

A. Johnson (Seal.)

Witness

James W. Orr. atty for  
John & Bennett Bailey.  
C. T. Dunsen atty  
for A. Johnson.



John & Bennett Bailey  
with } Agreement.  
A. Johnson

---



OFFICE OF  
N. L. JOHNSON,  
GENERAL MERCHANDISE,  
Manufacturer and Dealer in all kinds of  
HARDWOOD LUMBER,  
Spokes, Staves and Tanbark.

Pennington Gap, Va., *July 1st 1864*

Mr James Carmichael  
Cety

I must insist on your putting down  
on set 3, I can not make advances on  
the other sets. untill I get at least a good part  
of set 3 in

Respectfully A Johnson



Harry Matt  
to 50. lb flour 7 00

Bot Roman  
Hart Woodard 2 00

James Woodard  
for 100 lb flour  
to 50. lb flour

For 100 lb flour  
to 50. lb flour

James Woodard  
for 100 lb flour  
to 50. lb flour



In the Clerk's Office of the Circuit Court of the County of  
Lee.

Burnett Bailey

Plaintiff

against

James Carmichael and A.  
Johnson

Defendant

This day

Robt L. Demme  
A. B. Munsey

personally appeared

before me.

Clerk of the said Court,

and being duly sworn, made oath that

one of the,

James Carmichael

defendant S in the said suit is not aresident of the State of Virginia,

Given under my hand has Clerk of the said Court, this

24<sup>th</sup> day of Sept-

1894

A. B. Munsey Clerk



Bennett Bailey

vs.

}

AFFIDAVIT FOR ORDER  
OF  
PUBLICATION.

James Carmichael<sup>d</sup>

O B & C Bros p. q.



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 24<sup>th</sup> day of September 1894.

against Bennett Bailey Plaintiff

In Chancery

James Carmichael et al Defendants

The object of this suit is to enforce the collection of a debt of \$184 or  
One hundred & Eighty four dollars due the plaintiff from  
the defendant

And an affidavit having been made and filed that the defendant James Carmichael is

not resident of the State of Virginia, it is ordered that they do appear here, within Fifteen days  
after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is  
further ordered that a copy hereof be published once a week for four weeks in the South West  
Virginian, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the County Court.

A copy—Teste:

O. B. & C. & P. Bros p. q.

A. B. Mursey Clerk.



Bennett Bailey

VS.

ORDER  
OF  
PUBLICATION.

James Carmichael et al

I A. B. Munsey Clerk of  
the Circuit Court for Lee  
County do certify that  
delivered a copy of the  
within order of publication  
to W. H. Eads Editor of the  
South west Virginian  
on the 24th day of Sept  
1894 And that I posted  
a copy at the front door  
of the Court house as  
the law directs Given  
under my hand this  
the 16th day of Oct  
1894. A. B. Munsey  
Clerk



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 24<sup>th</sup> day of September 1894

against

John Bailey

Plaintiff

In Chancery

James barnichael et al Defendant.

The object of this suit is to enforce the collection of a debt of \$182.00  
One hundred and eighty two dollars + six cents due the  
plaintiff from the defendant

And an affidavit having been made and filed that the defendant James barnichael is

not resident of the State of Virginia, it is ordered that he do appear here, within Fifteen days  
after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is  
further ordered that a copy hereof be published once a week for four weeks in the South west  
Virginian, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the County Court.

A copy—Teste:

D.B. & E. & P. Bros

p. q.

A.B. Munsey

Clerk.



John Bailey

VS.

}

ORDER  
OF  
PUBLICATION.

James Carmichael et al

I A B Munsey Clerk of  
the Circuit Court do certify  
that I delivered a copy  
of the within to W H Cado  
Deitor of the South west  
Virginia on 24<sup>th</sup> day  
of Sept 1894 for publication  
and posted a copy at the  
front door of the Court  
house as the law directs  
Given under my hand  
this the 16<sup>th</sup> day of Oct  
A B Munsey Clerk



In the Clerk's Office of the Circuit Court of the County of  
Lee

John Bailey

Plaintiff

against

James Carmichael and  
A. Johnson

Defendant

In Chancery

This day George W. T. Loukin ship personally appeared  
before me A. B. Munsey Clerk of the said Court,  
and being duly sworn, made oath that James Carmichael -  
one of the  
defendant § in the said suit is not a resident of the State of Virginia,

Given under my hand has Clerk of the said Court, this 24 day of Sept. 1894

A. B. Munsey Clerk

~~1894~~



John Bailey

vs.

{ AFFIDAVIT FOR ORDER  
OF  
PUBLICATION.

James Carmichael

O. B. & E. & P. Bros. p. q.

Filed September the

24<sup>th</sup> 1894

A. B. Munsey Clerk



To John Bailey and Bennett Bailey

You will each take noticen that on Friday the first day of March 1895, at the law Office of Dun~~ea~~ can and Hyatt, in the town of Jonesville Lee County Virginia I will proceed to take the depositions of A.K.Debusk, William ~~Za~~ Zion and others, to be read as evidence in my behalf in two certain suit suits in chancery, now ~~xxxxxx~~ brought on to be heard together in the Circuit Court for Lee County, Virginia, wherein you~~are~~ are plaintiffs and I am defendant. And if from any cause said depostiton be not begun on that day, or if begun, be not completed on that day, the taking thereof will be continued from day to day ~~until the same be completed~~ and from place to place until the same be completed.

This Feby.26th 1895.

Duncan & Hyatt,  
Counsel.

A.Johnson,  
By Counsel.



A. Johnson -  
ads. Notice.  
John & Bennett Bailey  
To take depositions.

Legal services  
of the within  
nature accepted  
for the plaintiffs  
this Feb. 27<sup>th</sup> 1895 -  
Perrin & B. B.  
per S. H. P.



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*A. Johnson James Leammichael and*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the *1<sup>st</sup>* Monday in *October*, 189*4*, to answer *an amended* bill in Chancery,  
exhibited against *them* in our said court by *John Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the  
*24<sup>th</sup>* day of *September* 189*4*, and in the 11*9<sup>th</sup>* year of the  
Commonwealth.

*A. B. Munsey* Clerk.



Farther executed on the 2nd. day of October, 1894 at 11 o'clock, A.M.,  
by levying on two lots of poplar lumber as the property of James Carmichael, one lot of about 30,000 feet in Lee Co., in the Crab Orchard County, and on the lands of Rhoda Smith, and the other lot in the same County, and Country, and on the lands of Jasper Kelly, and is supposed to be about 30,000 feet. This Oct. 2., 1894.

*M. R. Fairbank* D.S. for  
C. E. Flanary. S.L.C.

John Bailey

vs.

SUBPOENA  
IN CHANCERY.

James Carmichael et al

O. B. & P. Bros p. q.

To 1st October Rules,  
Circuit Court.

Executed on the 1st day of October, 1894, by delivering a copy of the within summons to Myrtle Johnson, a daughter & member of the family of A. Johnson, and she the said Myrtle being over 16 years of age, and gave her information by its passport. In the said A. Johnson then not being found at his usual place of abode. Oct. 1/94

*M. R. Fairbank*  
for C. E. Flanary S.L.C.

The proper affidavit having been made; it is ordered that the officer bearing this writ do attach the estate of the defendant James Carmichael in this case and the same in his hands do attached, so to secure and provide that the same ~~do~~ <sup>be</sup> made forth coming and liable to the future order of the Court. \* September the 24th 1894 the next term of said Court and make return hereof to the Clerk of the said Court. Made at St. Marys Monday Clerk



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting;

WE COMMAND YOU, That you summon

*James Carmichael and  
A. Johnson*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said

Court on the *1st* Monday in *October*, 189*4*, to answer *an amended* bill in Chancery,

exhibited against *them* in our said court by *Bennett Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the

*24th* day of *September*, 189*4*, and in the *119th* year of the

Commonwealth.

*A Copy Left  
A B Munsey Clerk*  
*A. B. Munsey* Clerk.



The proper affidavit having been made: It is ordered  
 that the officer serving this writ do attach the estate of  
 the defendant James Cornschoel in this Cir. County  
 and the same in his hands & attach, so to  
 secure & provide that the same may be forth-  
 coming and liable to the future order  
 and make return thereof to the 3rd day of the next term of said Court  
 of the Court, Sept 24 1894.

Test- A B Munsey. Clerk,

VS. } SUPENA  
 { IN CHANCERY.

p. q.

To

Rules,

Circuit Court.

by levying on two

Further executed by on the 2nd day of October, 1895, at 11 o'clock, A.M.,



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*Johnson* *James Barnichael and A*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the *1st* Monday in *October*, 189*4* to answer *an amended* bill in Chancery,  
exhibited against *them* in our said court by *John Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the  
*24<sup>th</sup>* day of *September* 189*4* and in the *119<sup>th</sup>* year of the

Commonwealth.

*A Copy Leste*

*A B Munsey Clerk*

*A B Munsey* Clerk.



The proper affidavit having been ~~filed~~ made  
it is ordered that the officer serving this  
writ do attach the estate of the defendant  
James Carmichael in this, Lee County, and  
the same in his hands <sup>as</sup> ~~to~~ attach, so  
to secure & provide that the same may  
be forthcoming & liable to the future  
order of court. \* ~~Sep 24~~ <sup>1844</sup> day of the next term of said  
and make return thereof to ~~the~~ <sup>the</sup> Court  
Teste A B Munsey Clerk

VS. { SUPPENA  
IN CHANCERY.

P. 9.

To

Rules,

Circuit Court.



# The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*James Carmichael*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *1st* Monday in *September*, 189*4*, to answer a bill in Chancery, exhibited against *him* in our said court by *John Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *2nd* day of *August*, 189*4*, and in the 11*9th* year of the Commonwealth.

*A B Munsey* Clerk.



Virginia, Lee County, to-wit:-

This day H.L. Sprinkle personally appeared before me, a notary public, and made oath that he on the 4th. day of August, 1894 executed the within process by delivering a true copy of the same to Mary F. Carmichael, the wife of James Carmichael, and explaining to her its purport; he the said James not being found at his usual place of abode.

Given under my hand thus the 4th. day of August, 1894.

*E. W. Pennington*

Notary public

John Bailey

vs.

SUPREMA  
IN CHANCERY.

James Carmichael

Orr Ewing & B. p. q.

To 15th September Rules,  
Circuit Court.

Virginia, Lee County, to-wit:-  
This day H.L. Sprinkle personally  
appeared before me, A. B. Mumsey  
Clerk of the Circuit Court of Lee  
County, Va. and made oath that  
he on the 4th day of August, 1894,  
executed the within writ by  
delivering an attested office copy  
thereof to Mary F. Carmichael, wife  
of James Carmichael, found at  
his usual place of abode, and a  
member of his family, above the  
age of sixteen years, and giving  
her information of its purport.  
The said James Carmichael not  
being found at his usual  
place of abode. Given under  
my hand this 5th day of Sept 1894.

A. B. Mumsey Clerk.

*A. B. Mumsey Clerk*

The defendant ~~and all others~~ via enforced  
and prohibited from selling removing or otherwise  
disposing of the logs and lumber in the bill  
and proceedings mentioned until the further  
order of the Court the plaintiff having given  
bonds required by the injunction order



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*James Carmichael and  
A. Johnson*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the *1st* Monday in *October*, 189*4*, to answer <sup>*an amended*</sup> a bill in Chancery,  
exhibited against *them* in our said court by *Bennett Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the  
*24<sup>th</sup>* day of *September* 189*4*, and in the 11 *9<sup>th</sup>* year of the  
Commonwealth.

*A. B. Munsey* Clerk.



The proper Affidavit having been made, It is ordered that the officer serving this writ, do attach the estate of the defendant James Carmichael in this ~~County~~ Lee County. And the same in his hands so attached, so to secure and provide, that the same may be forth coming and liable to the future order of the Court and make return thereof to the 2nd day of the next term of said Court September the 24<sup>th</sup> 1894

Teste

A. B. Munsey Clerk

Bennett Bailey  
vs. { SUPRENA  
IN CHANCERY.

James Carmichael et al  
O. B. & P. Bros p. q.

To 1st October Rules,  
Circuit Court.

Executed on the 1st day of Oct. 1894, by leaving a copy of the within summons with Myrtle Johnson, who was over 16 years of age, and being a member of the family of A. Johnson, and explaining it to her, and giving her information of its purpose, in the said A. Johnson now then being found at his usual place of abode. This Oct. 2/94

W. R. Kirk D.S. for  
C. E. Flanary C.L.

Further executed on the 2nd day of Oct., 1894, at 11 o'clock A.M., by levying on two lots of poplar lumber, one of about 30,000 feet, on the Rhoda Smith land in the Crab Orchard Country in Lee County, and the other of about 30,000 feet on the lands of Jasper Kelly, in the Crab Orchard country, both as the lumber of James Carmichael. This Oct. 2., 1894.

C. E. Flanary S.L.C.O.

D.S. for

W. R. Kirk



The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

*James Carmichael*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said

Court on the *1st* Monday in *September*, 189*4* to answer a bill in Chancery,

exhibited against *him* in our said court by *Bennett Bailey*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the

*2nd* day of *August* 189*4* and in the 11 *9th* year of the

Commonwealth.

*A B Munsey* Clerk.



Virginia, Lee County, to-wit:-

I, E. W. Pennington, a Notary Public in and for the county and

State aforesaid do hereby certify that H.L. Sprinkle, personally appeared before me in my County, and made oath that he on the 4th. day of August, 1894 executed the within process by delivering a true copy of the same to Mary

F. Carmichael, the wife of the said James Carmichael, and explaining to her its purport; he the said James not being found at his usual place of abode.

Given under my hand this the 4th. day of August, 1894

E. W. Pennington

Notary Public.

Bennett Bailey

vs.

SUPREMA  
IN CHANCERY.

James Carmichael

Orr Ewing 10 p. q.

To 15th September Rules,  
Circuit Court.

Virginia, Lee County to-wit:-  
This day of September personally  
appeared before me, A. B. Munnsey,  
Clerk of the Circuit Court of said  
County, and made oath that he  
on the 4th day of August, 1894,  
executed the within writ by  
delivering an attested office  
copy thereof to Mary F. Carmichael  
wife of James Carmichael  
at his usual place of abode,  
she being a member of his  
family above the age of  
sixteen years, and giving her  
information of its purport.  
The said James Carmichael  
not being found at his usual  
place of abode. Given under  
my hand. this 5th day of Sept  
1894.

A. B. Munnsey Clerk.

A. B. Munnsey Clerk

The defendant is enjoined and inhibited from selling ~~moving~~ or otherwise disposing of the logs and lumber in the bill and proceedings mentioned until the further order of the Court, the plaintiff having given the bond required by the injunction order.



# CERTIFICATE OF ORDER OF PUBLICATION.

We, A. M. Goins and W. H. Eads,  
editors of the SOUTHWEST VIRGINIAN,  
a weekly newspaper published at  
Jonesville, Lee county, Virginia, do  
hereby certify that the annexed no-  
tice was published in said paper  
once a week for four successive  
weeks, commencing on the 27

day of Sept 1894.

A. M. Goins,  
W. H. Eads, } Editors.

VIRGINIA in the Clerk's Office of the  
Circuit Court of the county of Lee on  
the 24th day of September, 1894.

John Bailey, Plaintiff,  
against  
James Carmichael et als, Defendants.  
In Chancery.

The object of this suit is to enforce the  
collection of a debt of (\$182.66) One Hun-  
dred and Eighty-two Dollars and Six Cents  
due the plaintiff from the defendants. And  
an affidavit having been made and filed  
that the defendant James Carmichael is  
not a resident of the State of Virginia, it is  
ordered that he do appear here, within  
fifteen days after due publication hereof,  
and do what may be necessary to protect  
his interest in this suit. And it is further  
ordered that a copy hereof be published  
once a week for four weeks in the South-  
west Virginian, and that a copy be posted  
at the front door of the court house of this  
county on the first day of the next term of  
the County court.

A Copy - Teste:

A. B. MUNSLEY, Clerk.  
O., B. & E., and P. Bros., P. G.

s 27 4t

\$5.00



Filed Oct the 30<sup>th</sup> 1894

A B Muncy



# CERTIFICATE OF ORDER OF PUBLICATION.

We, A. M. Goins and W. H. Eads,  
editors of the SOUTHWEST VIRGINIAN,  
a weekly newspaper published at  
Jonesville, Lee county, Virginia, do  
hereby certify that the annexed no-  
tice was published in said paper  
once a week for four successive  
weeks, commencing on the 27

day of Sept 1894.

*A. M. Goins*  
*W. H. Eads.* } Editors.

**V**IRGINIA, in the Clerk's Office of the  
Circuit Court of the county of Lee on  
the 24th day of September, 1894.

Bennett Bailey, Plaintiff,  
against  
James Carmichael et al. Defendants.  
In Chancery.

The object of this suit is to enforce the  
collection of a debt of (\$184.00) One Hun-  
dred and Eighty-four Dollars, due the  
plaintiff from the defendant. And an af-  
fidavit having been made and filed that the  
defendent James Carmichael, is not a resi-  
dent of the State of Virginia, it is ordered  
that he do appear here, within fifteen days  
after due publication hereof, and do what  
may be necessary to protect his interest in  
this suit. And it is further ordered that  
a copy hereof be published once a week for  
four weeks in the Southwest Virginian,  
and that a copy be posted at the front door  
of the court-house of this county on the first  
day of the next term of the county court.

A Copy—Teste:

A. B. MUNSEY, Clerk.  
O., B. & E, and P. Bros. p. q.

s 27 4t

*\$5.00*



Filed Oct the 3<sup>rd</sup> 1894

A. B. Munsey



Plffs Costs

C 15.16  
S 3.00  
NP 15.08  
JP 75-  
Costs 1300  
\$46.96

Defts Costs

C \$7.30  
NP 8.25  
Atty 15.00  
Ck 25  
\$30.80

John  
+  
Fennell Bayley Com.

vs In Chancery

James Carmichael, et al.

C. B. T. and P. B. T.  
1894 1st Dept Rules bill filed  
Spa 2d + Decree. Mis  
" 2nd Dept Rules D. N. Court  
+ Cause set for hearing  
by Plff  
" Nov. Term Court

March Term Decree  
final O. V. Book Page  
185

24.35-